



Probate Law Committee Presents

The Top 10 Mistakes Lawyers Make in Probate

Wednesday, November 14, 2012, 11:30 AM to 1:00 PM

1. Failing to recognize the degree to which Probate is a statutorily-based practice and failing to appreciate the statutory basis upon which rulings are made.

2. Failing to quickly and properly take control of and protect estate assets.

Example 1: Failing to file a Petition to Take Possession of Real Estate when money needs to be spent on the property (insurance, repairs, etc.).

3. Failing to inform the fiduciary of the fiduciary's powers and duties as guardian of the person or conservator of the estate.

Example 1: Failing to transfer the cash in an estate to an estate account and instead permitting the ward or another person to have access to an ATM, debit or credit card, bank account, or other cash.

Example 2: Failing to obtain and retain documentation of expenses, especially where expenses are paid by cash.

4. Failing to timely file a Report of Sale of real estate in an estate administration.
5. Failing to use proper forms, or to fill out forms correctly, when preparing accounting (Annual Settlement or Statement of Account), failing to adequately describe receipts and disbursements; lumping entries instead of itemizing; and failing to show market values, gains, losses, dividends, and other interest payments.
6. Failing to double-check math on settlements.
7. Failing to utilize Supervised Administration for an estate that involves a family in dysfunction.
8. Failing to list all parties or heirs on Confidential Case Party Information sheet.
9. Failing to prepare an accurate inventory of the estate's assets and to provide all the supporting documents.
10. Failing to respond promptly and completely to filing deadlines, Court orders, and auditing requirement letters.