

10 Things To Know When Doing Your First Probate Case (Marion County)

1. Probate Court is located on the 17th floor of the City County Building. Hours are from 8:00-4:30 and the Court commissioner/magistrate is not available for walk-in clients from noon to 2:00. To file a case, attorneys should start with the Probate Court Bailiff located in room 1721. The Probate Clerk is also located on the 17th floor.
2. Before coming to Court carefully review the Marion Superior Court Probate Rules (Indiana Rules Of Court Volume III Local) and the instructions the Court requires for personal representatives and guardians. Remember that you can always call the Court commissioner/magistrate (317.327.5063) if you have any questions about your case, instructions, or the local rules, being mindful of the rules for *ex parte* communications in contested matters.
3. To open an estate the attorney and personal representative (unless out of state) are required to meet with the commissioner/magistrate to review the pleadings and qualifications of proposed Personal Representative. Attorneys should make sure to ask their client about any felony convictions because a person with any felony conviction is barred from serving as a personal representative. Attorneys should get the instructions that Court requires for the personal representatives prior to opening the estate and make sure that the personal representative understands their responsibilities. If testate estate bring original will to Court. Review I.C. § 29-1-10-1 for priority of who shall serve as a personal representative. Again call the commissioner/magistrate if you have any questions.
4. There are no appointments to open an estate, people are seen on a first come first served basis. After approval by commissioner/magistrate, you will stop at the bailiff's desk again before walking down the hall to the Probate Clerk where you will get your letters. This all will take some time so attorneys should advise their clients that it would be best for them to park in a lot rather than a meter.
5. Bonds are required in all estates except when the spouse is the sole and only heir. The Court will set a minimum bond amount of \$17,000 even if the will states that no bond is required. The Personal Representative will not get letters until the bond is posted.
6. Check with the Probate Clerk (317.327.4718) if you have questions in regards to the filing fees, cost of publication, number of copies of pleadings needed, preparation of notices to be mailed, oath, and letters. Also check with them about method of payment required.
7. Get Consents to Transfer and Inheritance Tax Forms from the Inheritance Tax Office on the 11th floor of the City County Bldg. You will need date of death values including interest.

8. It is a good idea for the attorney to accompany the Personal Representative to the bank to set up the estate bank account. Keep in mind the Court's requirements for the Final Accounting (found in Court's instructions). The attorney should make sure that copies of the bank statements are sent to their office so they can monitor the personal representative's activities. Will also need federal tax ID number from the IRS.
9. Hearings and physician statements (Court has forms) are required in all adult guardianships. There is a special notice statute for both the adult and minor guardianships. I.C. § 29-3-6-1. All requests for emergency temporary guardianships without notice of adults or minors need to comply with T.R. 65(B).
10. For minor guardianships of the person the attorney will need to check to ensure that no divorce or paternity proceedings are on file because then the Probate Court would not have jurisdiction to establish a guardianship of the person. Probate Court does have jurisdiction for guardians of the estate and the Court requires restricted accounts to be set up for minors. Guardianships for minor children with a common parent may be filed under the same cause number and need only one filing fee.