

# Legal NEWSLETTER

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**NEW ATTORNEYS**

**FREE ESTATE PLANNING SEMINAR**

*This publication is not intended to provide legal advice, but rather insight and awareness into legal issues that we feel could be useful to our clients and friends. Actual resolution of legal issues depends upon many factors, including variations of facts, and state and federal laws.*



## **THE ABCs OF LLCs**

*By: Attorney Brent Jacobson*

Are you considering going into business with a friend? A limited liability company (LLC) is certainly a great choice. Limited liability companies are easy to form, offer the tax advantage of a partnership, and the liability protections of a corporation. However, like any venture, you should do your homework in advance.

If there will be more than one member, an operating agreement is highly recommended. While not required, an operating agreement affords

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**ANDERSON O'BRIEN LLP**

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## WELCOMING ATTORNEYS RAMKER AND SLOVENSKY

We are excited to announce that Kamryn Ramker has joined our firm as an associate attorney. She brings with her valuable experience from her time at the State Public Defender's Office in Wisconsin Rapids. Attorney Ramker is now focusing her practice on probate law, elder law, and estate planning.

A proud graduate of the University of Minnesota - Twin Cities, and the University of Wisconsin - Madison Law School, Kamryn is passionate about serving the central Wisconsin community she calls home. Kamryn resides in Wisconsin Rapids.



We are excited to announce that Ross Slovensky has joined our firm as an associate attorney. Before starting at Anderson O'Brien, LLP, Attorney Slovensky worked for a decade in the sports business, and tourism industries including time with the Minnesota Vikings. After living in the Minneapolis - St. Paul area for several years, he's excited to serve clients in his hometown of Central Wisconsin.

Ross has a bachelor's degree from the University of Wisconsin - La Crosse, a master's degree from Northern Illinois University, and a law degree from Mitchell Hamline School of Law. He served as a law clerk at our firm while completing his law degree, focusing his interests on employment and business law. He resides in Wisconsin Rapids with his wife, Laura. His practice areas are business, employment, and estate planning. ♦



**Big enough to win,  
small enough to care.**

# MYTHS AND FACTS ABOUT PROBATE

By Attorney Kamryn Ramker

Many misconceptions exist about how the probate process works in Wisconsin. These myths can be harmful, especially when they cause families to miss important planning, resulting in unnecessary delays or complications. Below are some of the most common misunderstandings, and some facts to set them straight:

1. Myth: Having a will means there will not be a probate.

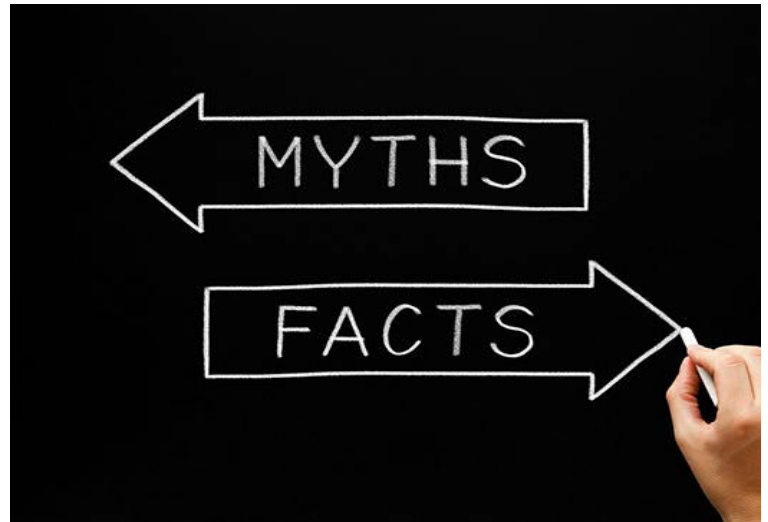
Fact: A will alone does not avoid probate. It simply tells the court how to distribute your assets after death. Probate is still required to validate the will and carry out its instructions. Without a will, the court applies Wisconsin's intestacy laws — a default set of rules created by the legislature to reflect what most people would likely want. A properly executed will avoids that default path by specifying your exact wishes.

There are additional tools that can help assets bypass probate entirely, including marital property agreements, beneficiary designations, trusts, transfer-on-death accounts and deeds (TOD), and more. An estate planning professional can help you choose what fits your specific goals and circumstances.

2. Myth: The probate process takes forever, often several years or more.

Fact: While probate can take several months, it can sometimes be resolved in as little as six to nine months in Wisconsin. The timeline depends on factors like the size of the estate, whether there is a will, the agreement of the heirs, outstanding debts, and whether property (like a house) needs to be sold.

By law, a notice to creditors must be published in a local newspaper for three consecutive weeks.



After that, creditors have 120 days to submit claims. If the estate's inventory is completed and there are no disputes, probate can often close shortly after the creditor period ends, as long as the proper tax filings have been completed.

3. Myth: Debts disappear completely upon someone's death.

Fact: Unfortunately, debts do not vanish. As stated above, the estate must notify creditors through legal publication, and those creditors have 120 days to file claims. If verified, those debts are paid from estate assets before any distribution to beneficiaries. If there are not enough assets to cover debts, beneficiaries may receive nothing, but they are not personally liable for those debts.

4. Myth: Probate is so expensive; there will be nothing left after it is finished.

Fact: While there are costs involved in probate such as court filing fees, executor commissions, and legal service fees, they rarely consume an entire estate. These costs are deducted before

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## Lawyers where you live.

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members tremendous flexibility in spelling out the rules that will govern the relationship going forward. Operating agreements may cover everything from voting rights, to profit distributions, to dissolution should there come a time when the relationship ends. If an operating agreement is not completed, questions and disputes are resolved by Wisconsin statutes and case law.

Chapter 183 of the Wisconsin Statutes covers LLCs. While the entirety of Chapter 183 is beyond the scope of this article, there are some important things to know, especially if you are going to be the member that is largely in charge of running the business.

A. Members owe each other duties of care and loyalty. These duties include holding LLC property, profits, and benefits for the company rather than for your own benefit and accounting to your fellow members. With reasonable notice, your fellow members are also entitled to view any records regarding the company's activities, affairs, financial condition, and other circumstances.

B. Any distributions made by an LLC must be proportional among members on the basis of each member's contributions or capital account.

C. Expelling a member from an LLC is not easy. An operating agreement providing other grounds for removal can be created. A member can only be expelled involuntarily by a court order finding wrongful conduct that is materially, and adversely affecting the company's business or affairs.

In conclusion, partnering with one or more friends or associates in a business venture can be exciting and profitable. An LLC is a great tool for forming the business. However, first educating yourself on your roles, duties, and responsibilities as an LLC member is important, and consulting with legal counsel to assist in drafting a detailed operating agreement can avoid problems down the road. Our experienced and knowledgeable business attorneys would be happy to meet with you to discuss creating an LLC. ♦

*(continued from inside), Probate*

the remaining estate is paid out to beneficiaries.

For smaller estates (under \$50,000), Wisconsin allows for a simplified process using a small-estate affidavit, which avoids a full probate proceeding and dramatically lowers costs.

The costs associated with a small-estate affidavit are typically less than a probate action. With proper estate planning, families can reduce the size of the probate estate and keep more assets outside of probate, minimizing both cost and hassle.

5. Myth: Only a trust can avoid probate.

Fact: Trusts can be a powerful tool, but they are not the only way to avoid probate. Tools like beneficiary designations, joint ownership, transfer-on-death accounts, and marital property agreements can also keep certain assets out of probate. Trusts can be ideal in some situations, especially for privacy, asset control, or complex family needs, but they are not necessary for every family.

Probate does not have to be a mystery, or a complicated hassle. While it can seem daunting at first, understanding the process allows for you to separate fact from fiction to make informed decisions to protect both your assets and loved ones.

An estate planning attorney can help determine which strategy makes the most sense for your goals and estate planning needs. Please contact our office to meet with one of our experienced estate planning attorneys. ♦

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