

Lisa R. Valente:

You do not need an attorney to go through the probate process. However, we have seen clients come to us who have tried to start the probate process on their own and they often encounter some difficulty, some legal issue that requires an attorney, so it's good idea to have an attorney do the process. Probate is a judicial process where one's last will and testament needs to be validated by the local court, usually the surrogate's court. Once the will is validated, the court officially appoints an executor to be the representative of the estate who can then have the authority to take action on behalf of the estate.

Some of the problems we see more often, the decedent, the person who died with the will, may have not been married, may have not had children, may have distant family members. Part of the probate process requires obtaining jurisdiction over the decedent's heirs-at-law. And often that's an issue for the executor to find who the heirs-at-law are, who the next of kin are, and that that comes up sometimes. In a simple case on Long Island in Nassau and Suffolk County, probate could take as little as a few weeks. However, many times issues arise, such as trying to locate the decedent's family, heirs-at-law, and that could produce delays for the probate process. And often those are the cases that a trust would be a better alternative to a will.