



LACY KIMBALL LAW

Advocacy. Creativity. Results.

103 York Avenue
Weatherford, Texas 76086

817/755-0529
817/887-4840 fax

info@LacyKimballLaw.com
www.LacyKimballLaw.com

*****Family Fighting*****

There is often discourse among family members or beneficiaries after someone passes. This is related to history between the parties coupled with emotions from the death of someone. The general rule for all people to remember is that the estate that is to be distributed is only so large- think of it like a pie. The more people fight and litigate the matter, the more attorneys and other necessary third parties cut out pieces of pie for themselves. At the end of the day, what ever is left of the pie is what is distributed to the beneficiaries. All estate expenses- including attorney's fees usually- are paid out of that pie.

Every item has a fair market value that when added together will give you the total value of the estate. Sentimental items do not carry a higher value. If there is not a dispute that the Will or Heirship is correct, then at the end of the day, the Will or heirship distribution law will tell each person what percentage of the total estate they are entitled to receive. If there is a dispute over specific property, often times the Court will order the property to be sold and money divided. Keep this in mind when there are disagreements about distribution of the estate.

Here is an example:

Sue dies owning a house, car, and personal property including an old desk. All four children want to keep the family home. Here beneficiaries are her four children- Bob, Dave, William, and Ruth. The values of the estate are:

House	\$100,000
Car	\$25,000
Personal Property (based on fair market value)	\$5,000
TOTAL Estate	\$130,000

The desk was a cheap desk used by Sue for many years, but has no increased market value due to age or quality. The value of the desk (included within the \$5,000) is \$50.00.

The funeral cost \$3,000.00, administration/attorney fees (with no difficulties) cost \$5,000.00, and a credit card claim cost \$2,000.00 for a total of \$10,000.00. These expenses are deducted so the total remaining estate is \$120,000.00 Each child will receive 25% of the estate for a total of \$30,000.00 worth of value to each child.

This can be achieved through joint ownership or selling of assets. In this case, the family decides that they will sell the car to pay the expenses and divide the personal property by agreement. The remaining car sales funds are divided equally and the house is taken into the name of all four kids equally. They can rent the property, sell the property, or one kid could buy the others out of the property.

HOWEVER- suppose that Ruth and Dave both want the desk that Sue used. They both hired an attorney to fight for them to get the desk. Now instead of administration and attorneys fees being \$5,000.00, to defend the executor/administrator, attend a settlement conference/mediation, have

court hearings, etc, the administration/attorney fees end up totaling \$30,000.00. The total expenses now of the estate are \$35,000.00.

Because of the infighting the Court ordered the car and personal property to be sold through an estate sale. The estate sales company commission was 40%. The car and personal property sold for \$30,000.00. After commission, the estate received \$18,000.00. Because this is insufficient to cover the expenses of the estate, the Court will order the house to be sold. After commissions and closing costs, the estate receives \$90,000.00.

The accounting for the estate now looks like this:

House	\$100,000
Car	\$25,000
Personal property	\$5000
Funeral	<\$3,000>
Administration/Atty Fees	<\$30,000>
Estate Sale Commission	<\$12,000>
Closing Costs/Realtor Fees	<\$10,000>
TOTAL ESTATE TO DISTRIBUTE	\$75,000.00

Each child still only receives 25% of the estate. So now each child will receive \$18,750.00. The other \$55,000.00 was expended on costs of administration and selling assets.

The key is to work together with beneficiaries and the executor/administrator to avoid the second situation. There are quick and easy methods to settle differences without getting into this scenario.