

Joshua Rubenstein Discusses the Shift Beyond Traditional Wills with *Citywealth*

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Katten Partner and Global Chair of the firm's Private Wealth Department, Joshua S. Rubenstein, was recently quoted in a *Citywealth* article examining how probate is undergoing a fundamental transformation, with rising disputes, cross-border complexity and shifting family dynamics driving advisers beyond traditional wills towards proactive, integrated succession strategies.

Regarding the evolution away from wills as the sole cornerstone of estate planning, Joshua explained the historical significance of probate and the growing dissatisfaction with the process. "For centuries, a last will and testament was the cornerstone of everyone's estate plan, leaving directions, fully amendable prior to death, with respect to who gets what, on what terms, and how debts, administration expenses and taxes are paid," Joshua said. "More recently, clients and advisors alike have voiced objections to the probate process, including that it is expensive, the courts are badly backlogged, particularly post-COVID, so there can be enormous delays, and one's wishes would become a matter of public record."

Joshua also addressed the rise of testamentary substitutes and the new litigation risks they create. "Today, however, dozens of new kinds of 'testamentary substitutes' have arisen, which have the effect of making it possible to make almost any asset pass by beneficiary designation or operation of law. Many financial institutions hawk these accounts as a means of avoiding 'dreaded' probate," Joshua explained. "But in fact, the proliferation of testamentary substitutes has led to a spate of new kinds of litigation, as one's will may express an intention for assets to be divided one way, but there may in fact be few if any assets over which a will can operate. Without a will to act as the quarterback for one's estate plan, disappointed beneficiaries can be confronted with inconsistent and outdated beneficiary designations each time an account is opened, leaving no convenient way to marshal estate assets to pay debts, administration expenses and taxes. It is also harder to prove that the opening of these accounts was truly the informed act of the decedent."

["Probate in Transition: Global Reform, Rising Disputes and the Shift Beyond Wills,"](#) *Citywealth*, May 6, 2026

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