

YOU
AND
YOUR WILL

A COMPLETE
DO-IT-YOURSELF MANUAL
WITH
FORMS AND INSTRUCTIONS

VIJAY FADIA

YOU
AND
YOUR WILL

**A COMPLETE
DO-IT-YOURSELF
MANUAL
WITH
FORMS AND INSTRUCTIONS**

VIJAY FADIA

IMPORTANT

Although care has been taken to ensure the accuracy and utility of the information and forms contained in this manual, neither the publisher nor the author assumes any liability in connection with any use thereof. This publication is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional service. If legal advice or other expert assistance is required, the services of a competent professional person should be sought.

This manual contains sophisticated techniques, ideas and suggestions to help you develop your own financial and legal plan to suit your circumstances. Any such plan of necessity requires competent professional help before it is devised and implemented. This book should not be used as a substitute for professional assistance essential to planning your business, financial, tax and legal affairs.

Published by
HOMESTEAD PUBLISHING COMPANY
23844 Hawthorne Blvd., Suite 200
Torrance, CA 90505
(310) 791-9975

Table of Contents

1. Why You Should Have a Will	1
2. Who Gets What If You Leave No Will	2
3. Who Can Make a Will	3
4. What You Can and Can't Do in Your Will	5
5. What You Should Know About Executors	5
6. Selecting a Guardian for Minor Children	7
7. Who Should Witness Your Will	7
8. Execution of the Will	8
9. What Makes a Will Invalid	9
10. Checklist Prior to Drafting a Will	10
11. Holographic Will — Is It For You?	12
12. Will Forms	14
Form W-1: Husband's Will: Childless; Wife as Primary Beneficiary and One Contingent Beneficiary.	
Form W-2: Wife's Will: Childless; Husband as Primary Beneficiary and One Contingent Beneficiary.	
Form W-3: Husband's Will: Childless; Wife as Primary Beneficiary and Two or More Contingent Beneficiaries; Per Stirpes Division.	
Form W-4: Wife's Will: Childless; Husband as Primary Beneficiary and Two or More Contingent Beneficiaries; Per Stirpes Division.	
Form W-5: Husband's Will: Childless; Wife as Primary Beneficiary and Two or More Surviving Contingent Beneficiaries to Share Equally.	
Form W-6: Wife's Will: Childless; Husband as Primary Beneficiary and Two or More Surviving Contingent Beneficiaries to Share Equally.	
Form W-7: Husband/Father's Will: Wife as Primary Beneficiary and Children as Contingent Beneficiaries; Per Stirpes Division.	
Form W-8: Wife/Mother's Will: Husband as Primary Beneficiary and Children as Contingent Beneficiaries; Per Stirpes Division.	
Form W-9: Will of an Unmarried Person with Children: Children as Primary Beneficiaries; Per Stirpes Division.	
Form W-10: Will of an Unmarried Person with Children: Children as Primary Beneficiaries; Division Among Surviving Beneficiaries Only.	
Form W-11: Will of an Unmarried Person without Children: Two or More Beneficiaries to Share Equally; Per Stripes Division.	
Form W-12: Will of an Unmarried Person without Children: Two or More Surviving Beneficiaries to Share Equally.	
Form W-13: Will of an Unmarried Person without Children: One Primary Beneficiary and One Contingent Beneficiary.	
13. How to Write a "Customized" Will	17
Sample "Customized" Will	29
14. Miscellaneous Clauses in Your Will	33
15. How to Change or Revoke a Will	
Sample Codicil	39
16. What Your Executor Should Know	43
17. Estate Planning Sheets	44
Form PS-1: Key Family Information	
Form PS-2: Summary of Assets	
18. Safekeeping of Your Will	45
19. State Supplementary Comments	45
20. California Will Supplement	50
California Statutory Will	
California Statutory Will With Trust	
21. Texas Will Supplement	51
22. New York Will Supplement	53
23. Florida Will Supplement	53
24. Living Will	55
Living Will Form	
25. Glossary of Terms	57

Appendix A: State-by-State Rules of Intestate Succession	59
Appendix B: State-by-State Schedule of Commission Allowed to Executors and Trustees	71
Maine Statutory Will	
Wisconsin Basic Will	
Wisconsin Basic Will with Trust	
Other Estate Planning Aids and Publications	

Chapter 1

Why You Should Have a Will

A will is the cornerstone of any estate planning process. When a person dies without a will (i.e. intestate), the laws of the state where the person last resided will determine how his or her assets shall be disposed of. In other words, if you did not write a will, the state will write one for you. The basic purpose of any will is to describe in precise terms a distribution plan for the assets left behind by the decedent. The will document expresses your wishes with regard to the disposition of your assets, and if you have expressed your wishes in a will, the state law will be overridden and your wishes will be carried out.

In spite of its paramount importance, many people in this country die without a will, with an invalid will, or with a will that is improperly drawn. Part of the problem lies in the human nature. Everyone has an inclination to put off things that have unpleasant connotations. Often, a person thinks that a will would hasten the arrival of death. But death is a fact of life, and ignoring the problem will not make it go away. Then again, people think they're too young to worry about death and wills. Too frequently, there isn't as much time as we thought there was. And finally, there are those who think they do not own anything of value to bother writing a will.

Needless to say, everyone of these misconceptions should be discarded and a proper plan made for the eventual disposition of your worldly possessions. In addition to being the best method to assure distribution of the exact property to the exact beneficiaries of your choice, a properly-written will has many added benefits:

1. Naming an Executor

You have the privilege of naming in your will a person you trust to serve as executor of your estate. This undoubtedly is the most important choice you'll be making in your will-writing process. Without a will, the court will appoint someone to do this job (normally called an "administrator.") This may or may not be a person your family knows and trusts, and yet, he'll be making all the crucial decisions affecting their lives.

2. Bond Requirement

In your will, you not only get to nominate an executor but also specify that he be not required to post a bond. If a court has to appoint an administrator, he will generally be required to supply a bond. A bond is a security that, in the event of mismanagement, theft or neglect of assets, the bonding company will make up the losses. The annual premium cost of posting a bond for a \$100,000 estate — not an entirely uncommon occurrence in these days — amounts to at least \$500 a year for as long as the estate is open which may be a year or two or longer. With a will, you can avoid this cost.

3. Executor's Powers

In your will, you can grant your executor wide powers to manage your estate. With such powers, he may be able to maximize the assets for the beneficiaries and lower the administrative expenses. A court-appointed administrator is fairly restricted in what he can and cannot do. This undoubtedly results in greater court interference and costs.

4. Choosing the Beneficiaries

If you die without a will (i.e. intestate), your surviving spouse, in many states, may get only one-third to one-half of whatever is left behind. The rest may go to children, parents, sisters, brothers, nieces, and nephews — and often, to people you hardly even know. The prospect of leaving your family assets for your wife to share with someone she hardly even knows is certainly not appealing.

In addition, the needs of all your children may not be alike. Some have grown up and are independent, some are still in school, and some others may require special supervision and care. The will allows you to allocate your assets to match the needs of the children.

5. Guardian for Minor Children

If you leave behind any minor children, the court, in the absence of a will, may be required to appoint a guardian for their welfare. This may be a guardian of the person of the minor as well as the property of the minor. This injects

an unknown quantity into the lives of your family which may be avoided by naming a guardian in your will. A court-appointed guardian may have to file a security bond, make periodic accountings to the court, and seek court approval for every decision made in behalf of the minors.

6. Business Continuity

If you're the sole owner of a business, at the moment of your death the business becomes the property of your estate. Most states prohibit estates from owning or running a business. This may require the liquidation of a running business at an inopportune time. In some states, there is a requirement that a business be incorporated in order for the estate to run it. This may entail additional expense.

7. Reduce Death Taxes

Making a will can frequently enable you to save death taxes by appropriate planning and by using specific will clauses. Without a will, you are almost certain to incur extra taxes by underqualifying or overqualifying for the marital deduction. You may also lose the opportunity to shield the estate from taxes through the use of a testamentary trust.

8. Tax Planning

There may be unnecessary taxes because without a will assets are distributed under a state-mandated mathematical formula and not under some well-conceived plan. Your spouse may receive less than the full amount that would have been given tax free. Your parents, already wealthy, may pay additional taxes because through intestacy they receive a substantial portion of your estate.

9. Efficient Probate

Everything else being equal, an estate settled under the terms of a well-drawn will is usually settled much faster and cheaper than a similar estate passing under the laws of intestacy.

Now that you are hopefully convinced of the necessity of having a well-written will, let's look at some other considerations affecting this important estate planning step, and then we'll actually see how you can write a will for yourself that has all the benefits that we've just discussed.

Chapter 2 Who Gets What If You Leave No Will

There is a popular saying, "Everybody has a will." It's true. If you don't write one, the state will write one for you. When you die without leaving a will, i.e. intestate, the laws of your state will govern the distribution of your property. The rules governing disposition of property in an intestacy are quite complex and vary from state to state. However, one thing is certain: Very seldom, distribution under state laws would match an individual's needs or desires.

Before we go on to discuss how this intestate disposition under state law takes place, let's answer an important question: The laws of which state would apply? For example, your state of domicile (where you permanently live) may be New York, but you also own a condominium in Florida and an interest in a business partnership in California. Which state's laws would determine the disposition of your estate in the event you died without leaving a will?

This is decided by the kind of property involved. The laws of the state where the real property is situated would dictate its disposition under intestate proceedings. If the intestate left any personal property, the laws of the state where the intestate was domiciled will dictate the inheritance of his personal property regardless of where such property was actually located. In the above example, the condominium, a real property, would be distributed according to the laws of Florida, whereas all the other personal property, including the business interest in California, would be governed by the laws of New York.

There is often a question of where a person is actually domiciled. Your place of domicile could be different from the place where you currently reside. A domicile is usually defined as the place where a person intends to make a permanent home, and the place he intends ultimately to return to if he is away.

For most people, determining the place of domicile presents no problem. But if you owned a place on either coast and spent considerable time between them, and also owned varied business interests and other real estate

holdings, this could get to be tricky. The most glaring example to come to mind is the case of Millionaire Howard Hughes. Three different states — California, Nevada and Texas — claimed him to be the domicile of that state. It took several years and millions of dollars to finally resolve the controversy. You see, a state has an interest in your estate for reasons of inheritance and death taxes.

In the event a question is raised regarding the domicile of a person, his activities and his intentions are analyzed to determine the actual state of domicile. Various pieces of evidence are taken into account, among them where a person is registered to vote, where he owns property, where state tax returns are filed, and which he considers to be his home.

Appendix A shows detailed rules regarding intestate succession in each of the fifty states. They will give you a general idea of how your property would be disposed of in the event you died without a will. These should be used only for general guidance; for actual laws, consult your own state probate code.

Chapter 3 Who Can Make a Will

In order to make a valid will, one not only has to observe all the formalities required in the preparation and execution of a will, but also must possess, what is generally known in legal language, testamentary capacity. This is simply the legal ability to make a will. Lack of testamentary capacity is the source of most litigation challenging the validity of a will. But as you'll see below, it's very easy to meet the requirements of the law. It's only very seldom that a legal challenge succeeds in its attempt to overturn a will.

The first element of testamentary capacity is the age. The following are the state-by-state age requirements for executing a will.

State	Minimum Age
Alabama	19 for real property 18 for personal property
Alaska	18
Arizona	18
Arkansas	18
California	18
Colorado	18
Connecticut	18
Delaware	18
District of Columbia	18
Florida	18
Georgia	14
Hawaii	18
Idaho	18, or any emancipated minor
Illinois	18
Indiana	18, or anyone who is a member of the armed forces or of the merchant marine
Iowa	18, or any married person
Kansas	18
Kentucky	18
Louisiana	16
Maine	18
Maryland	18
Massachusetts	18
Michigan	18
Minnesota	18
Missouri	18

State	Minimum Age
Montana	18
Nebraska	18
Nevada	18
New Hampshire	18, or any married person
New Jersey	18
New Mexico	18
New York	18
North Carolina	18
North Dakota	18
Ohio	18
Oklahoma	18
Oregon	18, or any married person
Pennsylvania	18
Rhode Island	18
South Carolina	18
South Dakota	18
Tennessee	18
Texas	18, or any married person or a member of the armed forces or of the maritime service
Utah	18
Vermont	18
Virginia	18
Washington	18
West Virginia	18
Wisconsin	18
Wyoming	18

Another element of testamentary capacity is mental capacity, i.e. being of sound mind. It's not at all difficult to satisfy this requirement. All the law requires is that you understand the nature and consequences of making a will. In other words, you must understand in general terms the nature and extent of your property and the persons who would normally receive it. Just because a person is mentally ill or is undergoing psychiatric care does not mean he lacks the requisite mental capacity to prepare a will. An eccentric person who leaves nothing for his family but leaves his entire fortune for the care and feeding of his cats may have executed a valid will. As you can see, the law is very tolerant in the area of will-making.

A further element of testamentary capacity is that the testator must be free from fraud, menace, duress or undue influence when he prepares and executes his will. Fraud invalidates a will. Fortunately, instances of fraud and deceit are very rare in this area.

Undue influence is a little harder to define. When a person exerts unusual pressure or persuasion to compel someone to act for his benefit which he under normal circumstances would not do may be considered to have exercised undue influence. A classic example may be the case of an old wealthy man who left his entire fortune to his nurse and companion to the exclusion of his children. Undue influence may be proven by showing that:

1. The testator was physically and mentally subject to undue influence.
2. The person had an opportunity and willingness to exert undue influence.
3. As a result, the testator lost his free will to act.

Proving undue influence is extremely difficult. Only a handful of cases succeed in overturning a will on this ground.

Chapter 4

What You Can and Can't Do in Your Will

A will, as we've said before, is simply an expression of your desires on how you wish to dispose of your property upon your death. To this end, there are very few restrictions that the law places on you. You can give as much or as little as you wish to anyone you like. But there are certain limits. The law says you can't do certain things in your will, and it will be worth noting what these "don'ts" are.

1. The most important limitation applies to married couples. If you live in a community property state, you own only one-half of the community property and you can only dispose of the half that you own. In all other states, known as common law states, a spouse has a certain right on the decedent spouse's property. This puts a limitation on the extent to which your spouse can be excluded from inheriting under your will. If the spouse does not receive the share of the estate that the law provides for, then he or she can elect to take against the will. Thus, under the right of election, a disinherited spouse will get what the state law specifies regardless of what you have said in the will. Generally speaking, you would have no problem if you provided for your spouse in your will at least what he or she would have gotten had there been no will at all. You can, however, disinherit any other persons including your children in your will.

2. Almost all states impose certain restrictions on the amount and nature of bequests or devises to charity. Generally, a testator who is survived by a spouse, children or parents may not will more than half his estate to charity. In some states, if a will is executed within a certain number of days before death, the amount that may be left for charity is also limited.

3. You will not be permitted to do in your will, after death, what the law will not permit you to do during life. Consequently, a provision in a will which is contrary to public policy will be stricken down. For example, a bequest on condition that the beneficiary remain unmarried is contrary to public policy and will be ruled invalid. However, a prohibition against marrying a specific person, or outside a specified religious faith is not contrary to public policy, and does not fall within the prohibition.

4. The law also does not give you the right to name an attorney to handle the probate of your estate. This power to select a particular attorney is vested in the executor of the estate. If you want a particular attorney to handle your estate, you should make prior arrangements with the executor.

5. You cannot use your will as a vehicle to carry out innuendo or diatribe against any individual. Your estate can be sued for libel.

Chapter 5

What You Should Know About Executors

The choice of an executor is one of the most important decisions you will be making while preparing your will. After your death, the executor steps in your shoes and acts as your personal representative until the estate is settled. He will be called upon to make many decisions regarding the estate that may affect the welfare of the beneficiaries under the will. Obviously, this is a substantial job requiring skill, patience, experience, judgment, and intelligence. The selection of an executor is a matter not to be taken lightly.

In many instances, a person selects his spouse or an adult child or a trusted friend to serve as executor. This is perfectly alright. If you have left behind a modest estate with most of the assets primarily going to your spouse and children, your executor will have no difficulty in steering the estate through probate, pay off the creditors, file tax returns and eventually distribute the assets to the designated beneficiaries.

On the other hand, if your estate is significantly large and has various investment holdings, or there is an ongoing business to take care of, you might want to consult a trust company or a bank to serve as executor. Such institutions specialize in handling estates through probate and they have the personnel and expertise to manage various assets of the estate in a business-like manner. They also have the advantage of being a corporation with perpetual existence, so there is never any need to appoint a successor executor. The main disadvantages of using a trust company are the significantly high costs and impersonal and inflexible touch they bring to an otherwise strictly family matter.

Duties of an Executor

1. Executor offers the decedent's will for probate in an appropriate court. He acts as the personal representative of the decedent in any court proceeding.
2. Executor gathers, organizes and prepares an inventory of the assets of the estate for eventual distribution.
3. He notifies creditors of the estate, and pays valid debts of the decedent.
4. While the estate is in probate, the executor carries on day-to-day operations of the estate including making or liquidating investments or deciding upon various business operations. The executor assumes these powers after being confirmed by court and operates under the general supervision of the court.
5. The executor is also responsible for seeing to it that income tax returns are prepared, and income and estate taxes are paid.
6. If there are any claims against others, the executor pursues these claims in behalf of the estate or the decedent. The executor is also responsible for defending the estate against any lawsuits.
7. The executor has to make periodic accounting of his actions and of the assets of the estate to the court and to the beneficiaries.
8. And finally, the executor distributes the remaining assets in accordance with the terms of the will.

So, as you can see, an executor's duties are those of a fiduciary who is responsible to manage and distribute the assets of the estate. In discharge of his duties, the executor is held in the highest level of trust and must act in the best interest of the beneficiaries at all times.

Eligibility to Serve as Executor

You can name any person or an institution to serve as executor of your estate. Generally speaking, there aren't any restrictions on whom you can nominate as executor. Obviously, the executor has to be willing and able to serve; he cannot be under age or a convicted felon. Some states like Florida require that he should also be a resident of the state at the time of the decedent's death. However, it's possible to get around this condition by appointing a resident agent for service of process or by posting a bond. Many states impose conditions on the eligibility of non-resident financial institutions to serve as executor.

Apart from these apparent conditions, there is one other consideration you should keep in mind while choosing an executor. The executor selected by you should not have substantial conflict of interest in discharging his duties as a fiduciary of the estate. Such a conflict of interest may arise, for example, in a case where a business partner is asked to serve as executor and he also is to determine the value of the decedent's interest in the business. It would be virtually impossible to expect a person to carry out an at-arms-length transaction in such a situation because he'll be wearing two different hats at the same time. Placing your business partner in this situation creates the potential for a conflict between his personal financial interest and his duty as your personal representative.

Executor's Commissions

Under state laws, an executor is allowed compensation, sometimes called a commission or fee. This commission varies from state to state and is based on the value of the probate estate. A full schedule of compensation allowed executors in various states is shown in Appendix B.

Normally in many instances, the question of executor's commission will not arise. If you were to appoint your spouse or your adult child to serve as executor, and the same person also happens to be the prime beneficiary

of the will, it would be advisable to waive any commissions. The person would have to declare the commissions received as income and pay taxes on it, while there would be little difference, as the prime beneficiary under the will, in the total amount he or she would receive from the estate.

Chapter 6

Selecting a Guardian for Minor Children

If you have any minor children or may have the possibility of leaving one behind at the time of your death, you should consider appointing a guardian in your will. Basically, you need a guardian of the person of the minor and a guardian for the property of the minor. One individual may serve in both capacities or, under some circumstances, you may appoint two different individuals for two apparently different tasks.

The guardian of the person of the minor should be someone who is able to take your place as either father or mother of the child. Your child will be in the care and custody of such a person, and will be brought up in his home according to his ideas. Obviously, the surviving natural parent is the automatic choice, but you may also want to appoint a successor guardian in the event both the parents happen to die in a common disaster. A relative or friend, even your oldest child, may be appointed as such a guardian to take care of your minor children. A surviving parent has a right to name a guardian for the minor children in his or her will, and most courts will honor this choice except under some extenuating circumstances.

The guardian of the property of the minor has rather different functions to perform. He is responsible to manage funds and property left to the minor child and see to it that such assets are applied wisely toward the comfort, care and education of the child. The functions of the guardian of the minor are summarized below:

1. Assume possession of the minor's property.
2. Manage and invest the minor's funds prudently.
3. Apply these funds for proper maintenance and support of the minor under the general supervision of the court.
4. Make periodic accounting to the court.
5. File tax returns and pay taxes in behalf of the minor.
6. Distribute the principal and accumulated income to the minor when he or she has reached the age of majority.

Chapter 7

Who Should Witness Your Will

All states require that a formal will be witnessed and signed in the presence of witnesses. Except for the following states, all states require two witnesses to a will:

New Hampshire	3 Witnesses
South Carolina	3 Witnesses
Vermont	3 Witnesses

Formal will forms included in this Kit provide for signatures of three witnesses. Even though your state may require only two witnesses, it is a good idea to have three witnesses in the event you move to one of the states that requires three witnesses. There is also the possibility of a witness having died or moved away from the area

at the time the will is admitted for probate. There are some general guidelines you should follow with respect to choosing witnesses to your will:

1. A witness must be at least 18.
2. Preferably, he should be someone younger than you, so he will be around to testify in the event it was necessary.
3. Your witnesses should ideally be people who know you.
4. The witness you choose should not be a beneficiary under the will. In some states, such as New York, a witness is legally prevented from inheriting any property under the will when that witness is necessary to prove the will. For example, if there are only two witnesses to the will and one of them is decedent's spouse, the will is valid but the spouse may not inherit anything under the will.

In some other states, such as California, there is an exception. An interested witness can take as much under the will as he would have had the testator died without leaving a will.

On the other hand, many states automatically disqualify an interested witness. In such states, if one of the two witnesses to your will is beneficiary under the will, the will would be considered invalid.

As a general rule, find three disinterested witnesses to your will.

Chapter 8

Execution of the Will

As we've observed before, there are basically two types of wills: the formal, witnessed will and the unwitnessed will. The witnessed will is valid in all fifty states; the unwitnessed will, only in a few. Each state has its own statutory requirements for the valid execution of a will. They differ in detail, but they all follow a certain basic pattern. We have summarized these requirements and formalities that must be observed in the execution of your will. By following these formalities you would virtually ensure that your will was validly executed in accordance with the laws of all fifty states.

More than 30 states permit "self-proving" wills which essentially means that the will will be presumed to have been executed according to the law and it will be admitted to probate without further proof or testimony of the witnesses. A partial list of states that have made provision for self-proving wills is shown below. Even though your state may not be such a state, it is advisable to follow the procedure to make the will self-proving; the process takes only a few minutes and may eliminate any future problems. Of course, a self-proving will is not immune from attacks due to lack of mental capacity, undue influence, fraud, forgery, etc.

It is important to realize that the proper execution of a will consists of two separate steps. In the first step, labeled here as Execution and Attestation, the testator and the witnesses sign the will in each other's presence. In the second step, the Self-Proving Affidavit is again signed by the testator and the witnesses in the presence of a notary public or some other officer authorized to administer oaths under the laws of the state who in turn sign and affix his official seal.

Now read the instructions below carefully and follow the procedure outlined.

1. Your will should be either a printed or typed document. The will forms provided in this Manual meet the requirements of a printed will.
2. Except for the signatures, everything on the will forms should be typed. The testator should sign the will. If he or she is unable to do so, another person can sign for him in his presence at his request. Of course, this signing should be observed by the witnesses.

3. The signature must follow the text of the will immediately and there should not be any blank spaces in between.
4. The will should be dated at the time of signing.
5. The will forms in this Manual provide for three witnesses, and it's recommended that you use three witnesses even though your state requires only two witnesses.
6. Your witnesses should not be beneficiaries, executors or trustees under the will, nor should they be spouses of beneficiaries, executors or trustees. Ideally, the witnesses should be acquainted with the testator.
7. **Execution and Attestation.** The testator and all of the witnesses should be together and remain together throughout the ceremony in one room, in the sight and hearing of one another. The testator declares to the witnesses that the document in his hand is his last will and testament, and he asks them to attest "the execution of this will." The witnesses should observe the testator sign his will. The signature should be the customary signature of the testator, and should conform to the name as set forth in the will. Each witness then should sign his name and write his address on the will document in the testator's presence and in each other's presence.
8. **Self-Proving Affidavit.** As explained above, during this second step, the testator and the witnesses should place their signatures in the presence of each other and in the presence of a notary public or other officer authorized to administer oaths in the state. The notary public will also sign the document and affix his seal.
9. It's a good practice but certainly not necessary that the testator sign or initial each page of the will. All the pages should be fastened together securely.
10. Only the original will should be executed. Other copies may be conformed but no will should be executed in duplicate.
11. After execution, the will should be placed in a safe place. This could be the safe deposit box rented in the name of the spouse or the executor of the will.

The following states provide for "self-proving" wills:

Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Iowa, Kentucky, Massachusetts, Minnesota, Missouri, New Jersey, North Carolina, North Dakota, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Utah, Washington.

Chapter 9 What Makes a Will Invalid

A will that is not signed and properly witnessed is invalid. Most states require that a will be executed in a particular fashion in the presence of necessary witnesses. This ceremony of executing a will should be taken quite seriously. We have laid out the essential steps involved in executing a will in this Manual. Follow these steps carefully.

There are a few other cautions you should observe. Do not write in pencil; a will should be written in ink or typed. If you are using a formal, printed will, it's legal to cross out non-applicable paragraphs or clauses before the will is witnessed. If you do alter your will, be sure to initial the alterations and also have the witnesses initial the same. Once a will has been witnessed, you cannot alter or cross out any provisions in the will or add a new one. In all other respects, your will should be letter perfect. If you make mistakes, do the will over until it's letter perfect.

Assuming your will was properly prepared, signed and witnessed, it still may be invalidated, at least in part, on the following grounds:

1. Lack of Testamentary Capacity

If it can be established that the decedent was not competent — of “sound mind” — at the time the will was signed, the will may be invalidated by the courts. In other words, the testator must know that he is signing a will, should have a general idea of the extent of his assets, and should show his intention to bequeath these assets to the persons designated in the will.

Courts are generally very reluctant to invalidate a will on the grounds that the testator was incompetent to make a will. A person’s mental capacity has to have deteriorated to great levels before a court will determine that he was not aware of what he was doing.

2. Fraud or Undue Influence

Often, in will contests, it’s alleged that the will was procured by fraud or that the decedent was subject to undue influence. Apparent heirs left out of a will often contend that their millionaire father was under the influence of the young mistress. Again, a court will not invalidate a will just because the old man gave everything he owned to the young mistress.

3. Will Against State Law

This problem occurs when a person disinherits, say, his spouse in his will. The rule of law is that if a husband and wife are legally married and live together, each has a claim to a certain share in the other’s property. A spouse has the right to elect to take against the will and receive the share he or she would have received if the spouse had died without a will.

The share that a surviving spouse is entitled to would be determined by the state law. For example, in New York, a spouse is entitled to receive one-third of the net estate of the decedent if there are one or more children, and one-half of the decedent’s estate if there are no children.

If your will provides for your spouse less than what he or she would receive under the state law, that part of your will may be invalidated. You should consult your state law on intestacy as explained in another chapter in this Manual, and leave your spouse at the least the minimum allowed under it.

It is possible for a husband to disinherit his wife from any share in his real property in Alabama, Arizona, District of Columbia, Florida, Georgia, Michigan, North Carolina, North Dakota, South Carolina, South Dakota, Utah, and Wisconsin. He may disinherit his wife from personal property in Alaska, Arizona, Delaware, Florida, Georgia, Michigan, New Jersey, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Utah, and Wisconsin.

A wife may disinherit her husband from her real property in North Dakota and South Dakota. She may disinherit him from personal property in Alaska, Delaware, Georgia, New Jersey, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, and Utah.

There are ways to get around a spouse’s right of election. One common way is by entering into an antenuptial or prenuptial agreement with your spouse. Under such an agreement, rights of each spouse with regard to the property of the other are specifically defined and override the application of laws of wills.

Chapter 10

Checklist Prior to Drafting a Will

Before you sit down and draft your will, you may want to ask yourself some of the following questions. These questions were designed to spur your thinking about estate planning in general and to help you define specific disposal plans. Use them only as guidelines.

1. Do you want to include in your will children from a past marriage or adopted children, if applicable to your situation?

2. Have you provided for your spouse in your will at least what he or she would receive under the right of election law?

3. Do you want to make specific bequest of personal effects?

Item	Primary Beneficiary	Contingent Beneficiary
_____	_____	_____
_____	_____	_____

4. Who do you want to receive your personal and household effects?

Your spouse _____

Children, if spouse not living _____

Someone else _____

5. Do you want to leave specific bequests of cash or property to friends or relatives?

Amount/Item	Primary Beneficiary	Contingent Beneficiary
_____	_____	_____
_____	_____	_____

6. Do you wish to forgive any debts owed to you at the time of your death?

Debtor	Debt
_____	_____
_____	_____

7. Is the title to your residence held in joint tenancy with a survivorship clause?

8. Whom do you want to lease your residence to?

Spouse _____

Someone else _____

9. Disposition of your other real property:

Street Address	Primary Beneficiary	Contingent Beneficiary
_____	_____	_____
_____	_____	_____

10. Do you want to leave the real estate to the beneficiaries subject to the existing mortgages? Or, do you want these mortgages paid off from the residuary estate?

11. Who do you want to serve as executor of your estate?

Name _____ *Address*

Alternate Executor:

Name _____ *Address*

12. Do you want to limit powers vested in the executor by the state law in any manner?

13. Who do you want to serve as guardian of your minor children?

Name

Address

Alternate Guardian:

Name

Address

14. Does your will provide for the contingency of simultaneous death in a common disaster of you and your spouse or a heir?

15. Have you reviewed your life insurance requirements recently? Do you need to update the beneficiary designation for any reason?

16. Are any of the witnesses to the will also beneficiaries of your estate? If so, check the state law on this matter.

17. Have you prepared a checklist (similar to the Estate Planning Sheets provided in this Manual) showing location of all the important documents for your executor?

Chapter 11

Holographic Will — Is It For You?

A holographic will must be written, dated and signed entirely in the hand-writing of the person making the will. As with any other type of will, the hand-written document must show clearly that the testator intended it to be his last will. A holographic will usually does not require any witnesses although it's a good idea to have witnesses. More importantly, a holographic will is valid only in a few states. A list of states that allow holographic wills is shown below.

A holographic will should be letter perfect. If you make a mistake writing one, do it over. Courts will invalidate a will that has crossouts, erasures or additions. You'll find cases where holographic wills have been ruled invalid because they were written on a printed letterhead, or because there was some typewritten material in it, or because there was a rubber stamp marking on it.

There are some additional problems with a holographic will. First concerns with the authenticity. It needs to be proven that the handwriting on the will belonged to the person who purported it to be his will. For this reason, holographic wills are often easier to challenge in courts. This may also have something to do with the fact that our society places more reliance on printed documents than on handwritten papers. There is also the problem of including many specific and important provisions that a properly-drawn will should contain. Since an ordinary person is not trained to write wills, he is likely to omit most of the important clauses that a formal, printed will contains. In addition, his expressed intentions may be too ambiguous for the courts to interpret which may result in having the will set aside.

In states that permit it, a holographic will is a perfectly legal document carrying the same weight as a formal, witnessed will — as long as it's done right. If you owned only a few possessions and had only a very simple disposition plan in mind, a holographic will might be an answer for you. However, for a vast majority of people, a holographic will could create more problems than solve, and should be avoided.

Holographic wills are valid in the following states.

Alaska, Arizona, California, Idaho, Kentucky, Louisiana, Mississippi, Montana, Nevada, North Dakota, Oklahoma, Pennsylvania, Puerto Rico, South Dakota, Texas, Utah, Virginia, West Virginia, Wyoming.

The above states do not require witnesses to a holographic will.

Arkansas allows holographic wills but requires three disinterested witnesses. North Carolina and Tennessee also allow holographic wills, but require that the testator's handwriting be proven by three witnesses.

New York allows holographic wills when made by someone during the course of a war or an armed conflict, or by a Mariner at sea. If a holographic will is made by a soldier during an armed conflict, it will become invalid one year after his discharge from the armed forces.

In all the remaining states, holographic wills are not valid.

At this time let's also discuss some other kinds of wills. Their use is generally very limited, and they are not recommended as a proper estate planning tool.

Noncupative Will

This is an oral will, and its use is highly restricted. Many states mandate that it can be used only by someone during his last illness and in immediate peril of death. Such a will must also have been made only a few days prior to death. Other states restrict its use to members of armed forces dying of battle injuries. Nearly all states restrict its use to disposition of personal property only and then only up to a certain amount (such as \$1,000.)

Joint, Mutual and Reciprocal Wills

A joint will is a single testamentary instrument executed jointly by two persons (usually husband and wife) disposing of all the property held by them either jointly or separately. A mutual will is one which is executed pursuant to an agreement between two parties and disposes of their property in a particular fashion. Under a reciprocal will, each testator names the other as the beneficiary under similar testamentary plans.

Having defined these wills, let's say this: Use of a joint, mutual or reciprocal will is strongly discouraged by estate planners. These wills have caused much litigation and expense, and often have produced results contrary to the wishes of the testator.

With joint wills, a problem arises when after the death of the first joint testator the surviving party attempts to revoke or amend the will. Although it would appear that since both parties had made a contract to make a joint will, the surviving party should not be allowed to revoke this contract unilaterally. Courts, however, have not always subscribed to this position.

Mutual and reciprocal wills are fraught with essentially the same problem. There is no guarantee that the surviving testator will not revoke his or her will after the death of the first testator.

Chapter 12 Will Forms

On the following pages, we've included thirteen standard Will forms. They are:

WILL FORM W-1

Husband's Will: Husband and wife are childless; husband wants to leave everything to his wife upon his death. If she does not survive him, though, he wishes his estate to go to some one other person.

WILL FORM W-2

Wife's Will: Husband and wife are childless; wife wants to leave everything to her husband upon her death. If he does not survive her, though, she wishes her estate to go to one other person.

WILL FORM W-3

Husband's Will: Husband and wife are childless; husband wants to leave everything to his wife upon his death. If she does not survive him, he wants to leave everything to two or more other persons equally; their children will take their share if they are not living.

WILL FORM W-4

Wife's Will: Husband and wife are childless; wife wants to leave everything to her husband upon her death. If he does not survive her, she wants to leave everything to two or more other persons equally; their children will take their share if they are not living.

WILL FORM W-5

Husband's will: Husband and wife are childless; husband wants to leave everything to his wife upon his death. If she does not survive him, he wants to leave everything to two or more other persons equally. If one of such persons dies, the surviving persons will divide his share.

WILL FORM W-6

Wife's Will: Husband and wife are childless; wife wants to leave everything to her husband upon her death. If he does not survive her, she wants to leave everything to two or more other persons equally. If one of such persons dies, the surviving persons will divide his share.

**WILL FORM
W-7**

Husband/Father's Will: Husband and wife have children. Husband wants to leave everything to his wife upon his death. If she does not survive him, he wants his estate to go to his children equally. If one of the children dies, that child's share goes to his children in equal shares. Allows appointment of a guardian for minor children.

**WILL FORM
W-8**

Wife/Mother's Will: Husband and wife have children. Wife wants to leave everything to her husband upon her death. If he does not survive her, she wants her estate to go to her children equally. If one of the children dies, that child's share goes to his children in equal shares. Allows appointment of a guardian for minor children.

**WILL FORM
W-9**

Will of an unmarried person with children: Parent wants to leave everything to his/her children equally. If one of the children dies, that child's share goes to his children in equal shares. Allows appointment of a guardian for minor children.

**WILL FORM
W-10**

Will of an unmarried person with children: Parent wants to leave everything to his/her children equally. If one of the children dies, that child's share goes to the surviving children. Allows appointment of a guardian for minor children.

**WILL FORM
W-11**

Will of an unmarried person without children: Person wants to leave his estate to two or more persons to share equally. If one of such persons dies, his share goes to his children.

**WILL FORM
W-12**

Will of an unmarried person without children: Person wants to leave his estate to two or more persons to share equally. If one of such persons dies, his share is divided among the surviving persons.

**WILL FORM
W-13**

Will of an unmarried person without children: Person wants to leave his estate to one primary beneficiary. If such beneficiary does not survive him, though, he wants his estate to go to a contingent beneficiary.

Instructions

1. Select the form that applies to your situation, e.g. husband with children, or unmarried person without children, etc.
2. Except for signatures, TYPE everything on the form. If you make mistakes, start over.
3. In the spaces provided, type the names and addresses of the testator (i.e. you) and beneficiaries.
4. Sign the document in the presence of three adult, disinterested witnesses. Also have the witnesses sign the document. Follow the procedure for execution of the will as outlined in Chapter 8.
5. You can make your will "self-proving" by having a notary public witness the signatures. Later if there is any controversy regarding the will, the sworn affidavit makes their personal appearance unnecessary.
6. Make sure you store your will in a safe place where it will be found by a responsible member of your family or the executor of the estate.

Last Will and Testament

W-1

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character, and wheresoever situated, I give, devise and bequeath to my beloved wife:

_____, to be hers absolutely and forever.

THIRD: If my said wife does not survive me, then I give, devise and bequeath such rest, residue and remainder of my estate to:

(Name) _____, of

(Address) _____
Number Street City State Zip

to be his/hers absolutely and forever.

FOURTH: I hereby appoint my wife _____ as Executrix of this my
LAST WILL AND TESTAMENT. If she does not survive me, then I appoint _____
as Executor/Executrix. I direct that no Executor/Executrix serving hereunder shall be required to post bond.

FIFTH: If my wife and I should die simultaneously, or under such circumstances as to render it difficult or impossible to determine who predeceased the other, I shall be conclusively presumed to have survived my wife for purposes of this will.

SIXTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

SEVENTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,

this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be his LAST WILL AND TESTAMENT by the within named Testator in the presence of us, who in his presence and at his request, and in the presence of each other, have hereunto subscribed our names as witnesses:

(1) _____ of _____
City State

(2) _____ of _____
City State

(3) _____ of _____
City State

AFFIDAVIT

STATE OF _____ City
COUNTY OF _____ or
Town _____

Personally appeared _____
Testator/Testatrix

and (1) _____, (2) _____
Witness
_____ and (3) _____
Witness *Witness*

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator and in the presence of each other, and the said Testator signed said Will in their presence and acknowledged that he had signed said Will and declared the same to be his LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator.

Testator/Testatrix
(1) _____
Witness
(2) _____
Witness
(3) _____
Witness

Subscribed and sworn to before me this _____ day of _____, 19_____

(Notary Seal)

Notary Public

Last Will and Testament

W-2

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executor, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character, and wheresoever situated, I give, devise and bequeath to my beloved husband:

_____, to be his absolutely and forever.

THIRD: If my said husband does not survive me, then I give, devise and bequeath such rest, residue and remainder of my estate to:

(Name) _____, of

(Address) _____
Number Street City State Zip

to be his/hers absolutely and forever.

FOURTH: I hereby appoint my husband _____ as Executor of this my
LAST WILL AND TESTAMENT. If he does not survive me, then I appoint _____
as Executor/Executrix. I direct that no Executor/Executrix serving hereunder shall be required to post bond.

FIFTH: If my husband and I should die simultaneously, or under such circumstances as to render it difficult or impossible to determine who preceeded the other, I shall be conclusively presumed to have survived my husband for purposes of this will.

SIXTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

SEVENTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,

this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be her LAST WILL AND TESTAMENT by the within named Testatrix in the presence of us, who in her presence and at her request, and in the presence of each other, have hereunto subscribed our names as witnesses:

(1) _____ of _____
City State

(2) _____ of _____
City State

(3) _____ of _____
City State

AFFIDAVIT

STATE OF _____
COUNTY OF _____

City
or
Town _____

Personally appeared _____
Testator/Testatrix

and (1) _____, (2) _____
Witness
_____ and (3) _____
Witness *Witness*

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testatrix and in the presence of each other, and the said Testatrix signed said Will in their presence and acknowledged that she had signed said Will and declared the same to be her LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testatrix appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testatrix.

Testator/Testatrix

(1) _____
Witness

(2) _____
Witness

(3) _____
Witness

Subscribed and sworn to before me this _____ day of _____, 19 _____

(Notary Seal)

Notary Public

Last Will and Testament

W-3

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character, and wheresoever situated, I give, devise and bequeath to my beloved wife:

_____, to be hers absolutely and forever.

THIRD: If my beloved wife does not survive me, I direct that the rest, residue and remainder of my estate shall be divided into _____ equal parts, and I give, devise and bequeath one of such parts to each of the following _____ persons, to be his/hers absolutely and forever:

The share of any person above named who shall not survive me shall be paid to such person's issue in equal shares, per stirpes; if such person has died leaving no issue, the part designated above as being for such person shall be divided among the other beneficiaries named above, in equal shares, per stirpes.

FOURTH: I hereby appoint my wife _____ as Executrix of this my LAST WILL AND TESTAMENT. If she does not survive me, then I appoint _____ as Executor/Executrix. I direct that no Executor/Executrix serving hereunder shall be required to post bond.

FIFTH: If my wife and I should die simultaneously, or under such circumstances as to render it difficult or impossible to determine who predeceased the other, I shall be conclusively presumed to have survived my wife for purposes of this will.

SIXTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

SEVENTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,
this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be his LAST WILL AND TESTAMENT by the within named Testator in the presence of us, who in his presence and at his request, and in the presence of each other, have hereunto subscribed our names as witnesses:

- (1) _____ of _____
City State
- (2) _____ of _____
City State
- (3) _____ of _____
City State

AFFIDAVIT

STATE OF _____

City

COUNTY OF _____

or

Town _____

Personally appeared _____,

Testator/Testatrix

and (1) _____, (2) _____

Witness

and (3) _____

Witness

Witness

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator and in the presence of each other, and the said Testator signed said Will in their presence and acknowledged that he had signed said Will and declared the same to be his LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator.

Testator/Testatrix

(1) _____

Witness

(2) _____

Witness

(3) _____

Witness

Subscribed and sworn to before me this _____ day of _____, 19 _____

(Notary Seal)

Notary Public

Last Will and Testament

W-4

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executor, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character, and wheresoever situated, I give, devise and bequeath to my beloved husband:

_____, to be his absolutely and forever.

THIRD: If my beloved husband does not survive me, I direct that the rest, residue and remainder of my estate shall be divided into _____ equal parts, and I give, devise and bequeath one of such parts to each of the following _____ persons, to be his/hers absolutely and forever:

The share of any person above named who shall not survive me shall be paid to such person's issue in equal shares, per stirpes; if such person has died leaving no issue, the part designated above as being for such person shall be divided among the other beneficiaries named above, in equal shares, per stirpes.

FOURTH: I hereby appoint my husband, _____, as Executor of this my LAST WILL AND TESTAMENT. If he does not survive me, then I appoint _____ as Executor/Executrix. I direct that no Executor/Executrix serving hereunder shall be required to post bond.

FIFTH: If my husband and I should die simultaneously, or under such circumstances as to render it difficult or impossible to determine who predeceased the other, I shall be conclusively presumed to have survived my husband for purposes of this will.

SIXTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

SEVENTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,
this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be her LAST WILL AND TESTAMENT by the within named Testatrix in the presence of us, who in her presence and at her request, and in the presence of each other, have hereunto subscribed our names as witnesses:

- (1) _____ of _____
City State
- (2) _____ of _____
City State
- (3) _____ of _____
City State

AFFIDAVIT

STATE OF _____ City
or
COUNTY OF _____ Town _____

Personally appeared _____
Testator/Testatrix

and (1) _____, (2) _____
Witness
_____ and (3) _____
Witness *Witness*

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testatrix and in the presence of each other, and the said Testatrix signed said Will in their presence and acknowledged that she had signed said Will and declared the same to be her LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testatrix appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testatrix.

Testator/Testatrix

(1) _____
Witness

(2) _____
Witness

(3) _____
Witness

Subscribed and sworn to before me this _____ day of _____, 19 _____

(Notary Seal)

Notary Public

Last Will and Testament

W-5

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character, and wheresoever situated, I give, devise and bequeath to my beloved wife:

_____, to be hers absolutely and forever.

THIRD: If my beloved wife does not survive me, I direct that the rest, residue and remainder of my estate shall be divided into _____ equal parts, and I give, devise and bequeath one of such parts to each of the following _____ persons, to be his/hers absolutely and forever:

The share of any person above named who shall not survive me shall be divided among the other beneficiaries named above, in equal shares.

FOURTH: I hereby appoint my wife _____ as Executrix of this my LAST WILL AND TESTAMENT. If she does not survive me, then I appoint _____ as Executor/Executrix. I direct that no Executor/Executrix serving hereunder shall be required to post bond.

FIFTH: If my wife and I should die simultaneously, or under such circumstances as to render it difficult or impossible to determine who predeceased the other, I shall be conclusively presumed to have survived my wife for purposes of this will.

SIXTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

SEVENTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,

this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be his LAST WILL AND TESTAMENT by the within named Testator in the presence of us, who in his presence and at his request, and in the presence of each other, have hereunto subscribed our names as witnesses:

- (1) _____ of _____
City State
- (2) _____ of _____
City State
- (3) _____ of _____
City State

AFFIDAVIT

STATE OF _____

City

COUNTY OF _____

or
Town _____

Personally appeared _____,
Testator/Testatrix

and (1) _____, (2) _____
Witness
_____ and (3) _____
Witness *Witness*

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator and in the presence of each other, and the said Testator signed said Will in their presence and acknowledged that he had signed said Will and declared the same to be his LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator.

Testator/Testatrix

(1) _____
Witness

(2) _____
Witness

(3) _____
Witness

Subscribed and sworn to before me this _____ day of _____, 19____

(Notary Seal)

Notary Public

Last Will and Testament

W-6

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executor, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character, and wheresoever situated, I give, devise and bequeath to my beloved husband:

_____, to be his absolutely and forever.

THIRD: If my beloved husband does not survive me, I direct that the rest, residue and remainder of my estate shall be divided into _____ equal parts, and I give, devise and bequeath one of such parts to each of the following _____ persons, to be his/hers absolutely and forever:

The share of any person above named who shall not survive me shall be divided among the other beneficiaries named above, in equal shares.

FOURTH: I hereby appoint my husband, _____, as Executor of this my LAST WILL AND TESTAMENT, if he be living. If he be not living, I appoint _____ as Executor/Executrix. I direct that no Executor/Executrix serving hereunder shall be required to post bond.

FIFTH: If my husband and I should die simultaneously, or under such circumstances as to render it difficult or impossible to determine who predeceased the other, I shall be conclusively presumed to have survived my husband for purposes of this will.

SIXTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

SEVENTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,

this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be her LAST WILL AND TESTAMENT by the within named Testatrix in the presence of us, who in her presence and at her request, and in the presence of each other, have hereunto subscribed our names as witnesses:

(1) _____ of _____
City State

(2) _____ of _____
City State

(3) _____ of _____
City State

AFFIDAVIT

STATE OF _____ City
COUNTY OF _____ or
Town _____

Personally appeared _____
Testator/Testatrix

and (1) _____, (2) _____
Witness

_____ and (3) _____
Witness *Witness*

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testatrix and in the presence of each other, and the said Testatrix signed said Will in their presence and acknowledged that she had signed said Will and declared the same to be her LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testatrix appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testatrix.

Testator/Testatrix

(1) _____
Witness

(2) _____
Witness

(3) _____
Witness

Subscribed and sworn to before me this _____ day of _____, 19 _____

(Notary Seal)

Notary Public

Last Will and Testament

W-7

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____

and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate,
including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any
interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts,
excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character, and
wheresoever situated, I give, devise and bequeath to my beloved wife:

_____, to be hers absolutely and forever.

THIRD: If my said wife does not survive me, then I give, devise and bequeath such rest, residue and remainder of my estate to
my beloved children, natural or adopted, in equal shares, per stirpes, to be their absolutely and forever; *provided*, that the share
of any child of mine who has died leaving no issue shall be divided among my surviving children in equal shares, per stirpes.

FOURTH: If my beloved wife does not survive me, I hereby appoint:

(Name) _____, of

(Address) _____
Number Street City State Zip

as guardian of such of my children as shall then be minors.

If _____ shall for
any reason fail to qualify or cease to act as such guardian, I appoint:

(Name) _____, of

(Address) _____
Number Street City State Zip

as such guardian. I request that no bond be required of any guardian named herein.

FIFTH: I hereby appoint my wife, _____, as Executrix of this my
LAST WILL AND TESTAMENT. If she does not survive me, then I appoint

(Name) _____, of

(Address) _____
Number Street City State Zip

as Executor/Executrix of my estate. I direct that no Executor/Executrix serving hereunder shall be required to post bond.

SIXTH: If my wife and I should die simultaneously, or under such circumstances as to render it difficult or impossible to determine
who predeceased the other, I shall be conclusively presumed to have survived my wife for purposes of this will.

SEVENTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions,
any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same
manner provided herein as if that contesting beneficiary had predeceased me without issue.

EIGHTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she
deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,

this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be his LAST WILL AND TESTAMENT by the within named Testator in the presence
of us, who in his presence and at his request, and in the presence of each other, have hereunto subscribed our names as witnesses:

(1) _____ of _____
City State

(2) _____ of _____
City State

(3) _____ of _____
City State

AFFIDAVIT

STATE OF _____
COUNTY OF _____

City
or
Town _____

Personally appeared _____
Testator/Testatrix

and (1) _____, (2) _____
Witness
_____ and (3) _____
Witness *Witness*

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator and in the presence of each other, and the said Testator signed said Will in their presence and acknowledged that he had signed said Will and declared the same to be his LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator.

Testator/Testatrix
(1) _____
Witness
(2) _____
Witness
(3) _____
Witness

Subscribed and sworn to before me this _____ day of _____, 19_____

(Notary Seal) _____
Notary Public

Last Will and Testament

W-8

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executor, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character, and wheresoever situated, I give, devise and bequeath to my beloved husband:

_____, to be his absolutely and forever.

THIRD: If my said husband does not survive me, then I give, devise and bequeath such rest, residue and remainder of my estate to my beloved children, natural or adopted, in equal shares, per stirpes, to be theirs absolutely and forever; *provided*, that the share of any child of mine who has died leaving no issue shall be divided among my surviving children in equal shares, per stirpes.

FOURTH: If my beloved husband does not survive me, I hereby appoint:

(Name) _____, of

(Address) _____
Number Street City State Zip

as guardian of such of my children as shall then be minors.

If _____ shall for
any reason fail to qualify or cease to act as such guardian, I appoint:

(Name) _____, of

(Address) _____
Number Street City State Zip

as such guardian. I request that no bond be required of any guardian named herein.

FIFTH: I hereby appoint my husband, _____, as Executor of this my
LAST WILL AND TESTAMENT. If he does not survive me, then I appoint

(Name) _____, of

(Address) _____
Number Street City State Zip

as Executor/Executrix of my estate. I direct that no Executor/Executrix serving hereunder shall be required to post bond.

SIXTH: If my husband and I should die simultaneously, or under such circumstances as to render it difficult or impossible to determine who predeceased the other, I shall be conclusively presumed to have survived my husband for purposes of this will.

SEVENTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

EIGHTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,

this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be her LAST WILL AND TESTAMENT by the within named Testatrix in the presence of us, who in her presence and at her request, and in the presence of each other, have hereunto subscribed our names as witnesses:

(1) _____ of _____
City State

(2) _____ of _____
City State

(3) _____ of _____
City State

AFFIDAVIT

STATE OF _____

City

COUNTY OF _____

or

Town _____

Personally appeared _____,

Testator/Testatrix

and (1) _____, (2) _____

Witness

_____ and (3) _____

Witness

Witness

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testatrix and in the presence of each other, and the said Testatrix signed said Will in their presence and acknowledged that she had signed said Will and declared the same to be her LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testatrix appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testatrix.

Testator/Testatrix

(1) _____

Witness

(2) _____

Witness

(3) _____

Witness

Subscribed and sworn to before me this _____ day of _____, 19 _____

(Notary Seal)

Notary Public

Last Will and Testament

W-9

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executor/Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character, and wheresoever situated, I give, devise and bequeath to my children, natural or adopted, in equal shares, per stirpes. If any of my children does not survive me, the share of that child shall be paid to the child's issue in equal shares; if this child has died leaving no issue, such child's share shall be divided among my other children, in equal shares.

THIRD: I request that

(Name) _____, of
(Address) _____
Number Street City State Zip
be appointed guardian of such my children as shall then be minors.

If _____ shall for
any reason fail to qualify or cease to act as such guardian, I appoint:

(Name) _____, of
(Address) _____
Number Street City State Zip
as such guardian. I request that no bond be required of any guardian named herein.

FOURTH: I make, constitute and appoint _____
as Executor/Executrix of this my LAST WILL AND TESTAMENT, to serve without bond.

If _____ shall
for any reason fail to qualify or cease to act as Executor/Executrix, I nominate

Name Address City State Zip
also to serve without bond.

FIFTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

SIXTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,
this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be his/her LAST WILL AND TESTAMENT by the within named Testator/Testatrix in the presence of us, who in his/her presence and at his/her request, and in the presence of each other, have hereunto subscribed our names as witnesses:

(1) _____ of _____
City State
(2) _____ of _____
City State
(3) _____ of _____
City State

AFFIDAVIT

STATE OF _____

City

COUNTY OF _____

or

Town _____

Personally appeared _____,

Testator/Testatrix

and (1) _____, (2) _____

Witness

_____ and (3) _____

Witness

Witness

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator/Testatrix and in the presence of each other, and the said Testator/Testatrix signed said Will in their presence and acknowledged that he/she had signed said Will and declared the same to be his/her LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator/Testatrix appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator/Testatrix.

Testator/Testatrix

(1) _____

Witness

(2) _____

Witness

(3) _____

Witness

Subscribed and sworn to before me this _____ day of _____, 19 _____

(Notary Seal)

Notary Public

Last Will and Testament

W-10

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executor/Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character and wheresoever situated, I give, devise and bequeath to my children, natural or adopted, in equal shares, or the survivor of them.

THIRD: I request that

(Name) _____, of

(Address) _____
Number Street City State Zip

be appointed guardian of such my children as shall then be minors.

If _____ shall for
any reason fail to qualify or cease to act as such guardian, I appoint:

(Name) _____, of

(Address) _____
Number Street City State Zip

as such guardian. I request that no bond be required of any guardian named herein.

FOURTH: I make, constitute and appoint _____
as Executor/Executrix of this my LAST WILL AND TESTAMENT, to serve without bond.

If _____ shall
for any reason fail to qualify or cease to act as Executor/Executrix, I nominate

Name Address City State Zip

also to serve without bond.

FIFTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

SIXTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,

this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be his/her LAST WILL AND TESTAMENT by the within named Testator/Testatrix in the presence of us, who in his/her presence and at his/her request, and in the presence of each other, have hereunto subscribed our names as witnesses:

(1) _____ of _____
City State

(2) _____ of _____
City State

(3) _____ of _____
City State

AFFIDAVIT

STATE OF _____ City
or
COUNTY OF _____ Town _____

Personally appeared _____
Testator/Testatrix

and (1) _____, (2) _____
Witness
_____ and (3) _____
Witness *Witness*

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator/Testatrix and in the presence of each other, and the said Testator/Testatrix signed said Will in their presence and acknowledged that he/she had signed said Will and declared the same to be his/her LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator/Testatrix appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator/Testatrix.

Testator/Testatrix
(1) _____
Witness
(2) _____
Witness
(3) _____
Witness

Subscribed and sworn to before me this _____ day of _____, 19 _____

(Notary Seal)

Notary Public

Last Will and Testament

W-11

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executor/Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character and wheresoever situated, shall be divided into _____ equal parts, and I give, devise and bequeath one such part to each of the following-
_____ persons, to be his/hers absolutely and forever:

The share of any person above named who shall not survive me shall be paid to such person's issue in equal shares, per stirpes; if such person has died leaving no issue, the part designated above as being for such person shall be divided among the other beneficiaries named above, in equal shares, per stirpes.

THIRD: I hereby appoint _____ as Executor/Executrix of this my
LAST WILL AND TESTAMENT and I direct that such person shall serve without bond.

If _____ shall
for any reason fail to qualify or cease to act as Executor/Executrix, I nominate

Name	Address	City	State	Zip
------	---------	------	-------	-----

also to serve without bond.

FOURTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

FIFTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,

this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be his/her LAST WILL AND TESTAMENT by the within named Testator/Testatrix in the presence of us, who in his/her presence and at his/her request, and in the presence of each other, have hereunto subscribed our names as witnesses:

- (1) _____ of _____
City State
- (2) _____ of _____
City State
- (3) _____ of _____
City State

AFFIDAVIT

STATE OF _____

City

COUNTY OF _____

or

Town _____

Personally appeared _____,

Testator/Testatrix

and (1) _____, (2) _____

Witness

_____ and (3) _____

Witness

Witness

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator/Testatrix and in the presence of each other, and the said Testator/Testatrix signed said Will in their presence and acknowledged that he/she had signed said Will and declared the same to be his/her LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator/Testatrix appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator/Testatrix.

Testator/Testatrix

(1) _____

Witness

(2) _____

Witness

(3) _____

Witness

Subscribed and sworn to before me this _____ day of _____, 19 _____

(Notary Seal)

Notary Public

Last Will and Testament

W-12

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executor/Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character and wheresoever situated, shall be divided into _____ equal parts, and I give, devise and bequeath one such part to each of the following-
_____ persons, to be his/hers absolutely and forever:

The share of any person above named who shall not survive me shall be divided among the other beneficiaries named above in equal shares.

THIRD: I hereby appoint _____ as Executor/Executrix of this my LAST WILL AND TESTAMENT and I direct that such person shall serve without bond.

If _____ shall for any reason fail to qualify or cease to act as Executor/Executrix, I nominate

Name	Address	City	State	Zip
------	---------	------	-------	-----

also to serve without bond.

FOURTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

FIFTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,
this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be his/her LAST WILL AND TESTAMENT by the within named Testator/Testatrix in the presence of us, who in his/her presence and at his/her request, and in the presence of each other, have hereunto subscribed our names as witnesses:

- (1) _____ of _____
City State
- (2) _____ of _____
City State
- (3) _____ of _____
City State

AFFIDAVIT

STATE OF _____

City
or

COUNTY OF _____

Town _____

Personally appeared _____,
Testator/Testatrix

and (1) _____, (2) _____

Witness

_____ and (3) _____

Witness

Witness

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator/Testatrix and in the presence of each other, and the said Testator/Testatrix signed said Will in their presence and acknowledged that he/she had signed said Will and declared the same to be his/her LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator/Testatrix appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator/Testatrix.

Testator/Testatrix

(1) _____

Witness

(2) _____

Witness

(3) _____

Witness

Subscribed and sworn to before me this _____ day of _____, 19 _____

(Notary Seal)

Notary Public

Last Will and Testament

W-13

KNOW ALL MEN BY THESE PRESENTS: That I, _____,
of the City/Town of _____, County of _____
and State of _____, being of sound and disposing mind and memory, do make, publish and
declare the following to be my LAST WILL AND TESTAMENT, hereby revoking all Wills by me at any time heretofore made.

FIRST: I direct my Executor/Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of either this instrument or a separate inter vivos trust instrument, and all my just debts, excepting mortgage notes secured by mortgages upon real estate.

SECOND: All the rest, residue and remainder of my estate, both real and personal, of whatsoever kind or character, and wheresoever situated, I give, devise and bequeath to:

(Name) _____, of

(Address) _____
Number Street City State Zip

to be his/her absolutely and forever.

If the aforementioned beneficiary does not survive me, then I give, devise and bequeath such rest, residue and remainder of my estate to:

(Name) _____, of

(Address) _____
Number Street City State Zip

to be his/hers absolutely and forever.

THIRD: I hereby appoint _____ as Executor/Executrix of this my LAST WILL AND TESTAMENT and I direct that such person shall serve without bond.

If _____ shall
for any reason fail to qualify or cease to act as Executor/Executrix, I nominate

Name Address City State Zip

also to serve without bond.

FOURTH: I authorize my Executor/Executrix to sell, either at public or private sale, any assets or property of the estate as he/she deems proper to pay for the costs of probating the estate, and maintaining my family after my death.

FIFTH: If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at _____,

this _____ day of _____, 19 _____.

(sign here) _____ L.S.

Signed, sealed, published and declared to be his/her LAST WILL AND TESTAMENT by the within named Testator/Testatrix in the presence of us, who in his/her presence and at his/her request, and in the presence of each other, have hereunto subscribed our names as witnesses:

(1) _____ of _____
City State

(2) _____ of _____
City State

(3) _____ of _____
City State

AFFIDAVIT

STATE OF _____

City
or

COUNTY OF _____

Town _____

Personally appeared _____,

Testator/Testatrix

and (1) _____, (2) _____

Witness

_____ and (3) _____

Witness

Witness

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator/Testatrix and in the presence of each other, and the said Testator/Testatrix signed said Will in their presence and acknowledged that he/she had signed said Will and declared the same to be his/her LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator/Testatrix appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator/Testatrix.

Testator/Testatrix

(1) _____
Witness

(2) _____
Witness

(3) _____
Witness

Subscribed and sworn to before me this _____ day of _____, 19____

(Notary Seal)

Notary Public

Chapter 13

How to Write a “Customized” Will

This Manual is labeled as a do-it-yourself will kit. The Manual was prepared for a vast majority of people who either do not have a will at present or have only a hand-written will of dubious validity. For various reasons these people have put off taking concrete steps toward responsible, long term estate planning. The formal, printed will forms contained in the Manual were prepared for these people. They cover a wide variety of situations, and all one has to do is to select a form that best fits their situation and desires, and fill in the blanks.

But what if your disposition plans were a little more involved than those provided for in the standard will forms? What if you wanted to make a specific bequest to a specific person? What if you wanted to include relatives and friends, in addition to your spouse and children, as beneficiaries under your will? In short, what if you wanted to write a “customized” will like a lawyer might write for you? Can you do it using this Will Kit?

The answer is, you can write your will in exactly the same fashion, using exactly the same language as a lawyer does. We’ve made an effort here to provide you with all the relevant clauses that meet the statutory requirements. Under each clause, there is a short explanation on how to use it. In many instances, you may be able to choose between two or more alternative clauses and use the one that more directly applies to you.

In case you’re wondering, a lawyer uses exactly the same process when he writes a will for his client. Now you have available to you the same tools that he uses. Once you’ve selected the clauses for your will, you can put together a will that’s truly a “customized” document prepared by you to meet your specific requirements. You’ll have to fill in the names of the beneficiaries and the amounts or shares you’re bequeathing but, here again, you can follow similar examples shown with very minor changes. At the end of the chapter, we’ve put together some sample wills just to show you what a finished product looks like.

I sincerely believe that this approach will be of tremendous value to many people who always felt that they could not use the pre-printed forms and were almost resigned to going to a lawyer to have their will written.

At the end of this chapter, we’ve provided a checklist of will clauses in the order they normally appear in a will. Some clauses are customarily used in every will, some are optional and some others are recommended. Step-by-step instructions follow the checklist to show you how you can put together your will.

1. Heading

Each will should have a heading with the Testator’s name shown at the top.

**LAST WILL AND TESTAMENT
OF**

Testator's Name

2. Introductory Clause

This clause names the testator, the place of his residence and domicile and revokes all prior wills. If you've used a variation of your name at times, place after your name, "... also known as _____,".

I, _____,
Testator's Name

a resident of and domiciled in the _____
City/Town

of _____, County of _____,
Name of City/Town

and State of _____,

do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time heretofore made by me.

3. Identification of Spouse and Children

This clause establishes your marital status and also establishes your intention to include later-born and adopted children in your will. Unmarried persons can omit the first part of this clause or modify it appropriately.

I am married to _____,
Name of Spouse

and all references to _____
My Husband/My Wife

shall be to _____.
him/her.

At the time of the execution of this will, I have the following children.

Names of Children

As used in this will, the words "my children" shall mean the above-named, and any others hereafter born to me, and in addition to my natural children, any child legally adopted by me.

4. Direction to Pay Debts

As we've discussed elsewhere, the direction to pay debts is unnecessary, but is often included in a will.

I direct that all my just debts, secured and unsecured, be paid as soon as practicable after my death, but my executor shall not be required to pay in advance of maturity any obligation of mine.

5. Direction to Pay All Taxes From Residuary Estate

Your will should specify who is to bear the burden of estate and death taxes. Generally, for tax reasons, the residuary estate is the best source for tax payment. Without a specific provision, the state laws often require that all estate assets share the tax burden proportionately. This may be disastrous for certain beneficiaries who may be forced to sell the assets to raise their share of taxes.

I direct that all estate, inheritance, succession, death or similar taxes (except generation-skipping transfer taxes), regardless of whether the assets in respect of which such taxes have been imposed pass under this will or otherwise, shall be paid out of my residuary estate passing under will, without apportionment.

6. Specific Bequest of Personal Property

Often a person wishes to leave a specific item of personal effect to a designated person. Such a bequest should be stated unambiguously. You should also know the difference between a demonstrative bequest and a specific bequest. A demonstrative bequest gives the beneficiary a dollar amount equivalent of a specific property, or the gift of a specific property that is highly negotiable, such as stocks and bonds. For example, a bequest to someone of \$10,000 worth of ABC Corporation common stock would be a demonstrative bequest. But a bequest of "all of my ABC Corporation common stock" would be a specific bequest.

Each of these bequests has a different implication. If the decedent does not own any ABC Corporation common stock at the time of his death, a demonstrative bequest of \$10,000 in ABC Corporation common stock would require the executor to purchase the stock in order to satisfy the bequest. However, if the bequest was specific, since the decedent did not own any ABC Corporation common stock at the time of his death, the bequest would simply be adeemed and the beneficiary would take nothing.

There is also a third kind of legacy called general legacy. A general legacy is not a legacy of any particular item or money that can be specifically identified. It is satisfied out of the general assets of the testator's estate. An example of general legacy would be "I give and bequeath the sum of \$1,000."

You may use the following clause to bequeath a specific item of personal effect to a specific person. You may bequeath as many different personal items to as many different persons as you wish.

I give and bequeath to _____, *Name*,

if he shall survive me, _____
e.g. my diamond ring

If he shall not survive me, then I give and bequeath said _____
e.g. diamond ring

to _____ if he shall survive me.
Alternate Beneficiary

If he shall not survive me, such property shall be added to and disposed of as my residuary estate.

7. Specific Bequest of Stock

If you want to leave all or part of your stock portfolio to a person, you should use the following clause.

I give and bequeath to _____, *Name*

if he shall survive me, the stocks listed below:

<i>Shares</i>	<i>Stock</i>
_____	_____
_____	_____
_____	_____

If he shall not survive me, then this legacy shall lapse and become a part of the residue of my estate.

8. Cash Legacy

Gifts of cash are quite common in wills, and you can include such provisions in your will with a clause shown below.

I give and bequeath to _____, *Name*

if he shall survive me, the sum of _____, *Dollars*

If he shall not survive me, then I give and bequeath said sum to _____, *Name*

if he shall survive me. If he shall not survive me, then this legacy shall lapse and become a part of the residue of my estate.

9. Forgiveness of a Debt

It's also somewhat common for debts to be forgiven in a will. Use the following clause.

I hereby forgive any and all debts owed to me at the time of my death by _____

_____ *Name*

including interest thereon, and I direct my executor to cancel any promissory notes or other evidences of his indebtedness to me.

10. General Bequest of Personal and Household Effects

A general bequest of personal effects as shown below should be included in every will regardless of the other provisions of the will. The following clause bequeaths to the spouse all of the items of personal effects and alternately divides them among the children equally with the executor having the final determination of the appropriateness of the division. If you're an unmarried person or have no children, you should make appropriate changes in the clause with regards to the beneficiary designation.

I give and bequeath all of my personal and household effects of every kind including but not limited to furniture, appliances, furnishings, picture, silverware, china, glass, books, jewelry, wearing apparel, boats, automobiles, and other vehicles, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property, to

_____ *Name of Spouse*

if he shall survive me. If my said husband shall not survive me, I give and bequeath all of said property to my children surviving me, in approximately equal share, provided however, the issue of a deceased child surviving me shall take per stirpes the share their parent would have taken had he or she survived me. If my issue do not agree to the division of the said property among themselves, my executor shall make such division among them, the decision of my executor to be in all respects binding upon my issue. If any beneficiary hereunder is a minor, my executor may distribute such minor's share to such minor or for such minor's use to any person with whom such minor is residing or who has the care or control of such minor without further responsibility and the receipt of the person to whom it is distributed shall be a complete discharge of my executor.

11. Specific Devise of Real Property

Generally, a family's principal dwelling is held in joint tenancy with a survivorship provision. The joint ownership is usually considered the best way of passing the principal residence to the surviving spouse or the family at death. The provisions of joint tenancy will supercede your will.

Aside from the principal dwelling, you may also own other real property, such as a vacation or second home, undeveloped land, or an income-producing property. The following clause allows you to pass such real property to a beneficiary subject to any mortgage on it. Care should be taken to describe the property with particulars, such as the street address and, if necessary, by the legal description available on the county assessor or tax collector's records.

You should always specify in your will, whether you wish to pass the property subject to any mortgage that may exist at the time of death. Laws on this matter vary from state to state. In some states, the devisee is entitled to have the mortgage paid off from the general estate; in others, real property passes subject to any existing mortgages. It is important that you make clear your intentions. In the following clause, the devise is made subject to any mortgage.

I give and devise to _____ ,
Name

if he shall survive me, any interest which I own at the time of my death in the house and lot located at

If this property at the time of my death is subject to any mortgage, then this devise shall be subject thereto and the devisee shall not be entitled to have the obligation secured by such mortgage paid out of my general estate.

12. Residuary Estate

This is the portion of the testator's estate remaining after the payment of all debts, taxes, funeral and administrative expenses, bequests and devises. Your will should include a clause to dispose of this residuary estate. It's normal for a person to provide for his relatives and friends through specific bequests and legacies, and then to leave the residuary estate to the primary beneficiaries, such as spouse and children.

All the rest, residue and remainder of my estate, of whatsoever kind and nature, and wheresoever situated, of which I may be seized or possessed or to which I may be entitled at the time of my death, not hereby otherwise effectually disposed of (including any property over which I have power of appointment) I give, devise and bequeath to

Name of Spouse

if he shall survive me. If he shall not survive me, then I give, devise and bequeath the said residuary estate to

Names (e.g. Children)

equally.

13. Naming an Executor

Selection of an executor for the estate is the most important decision you'll be making in your estate planning process at this stage. Most people choose their spouse or an adult son or daughter to serve as executor. Often, it may be a close friend or a relative who'll be asked to serve as executor. In any case, you should waive the requirement of a bond. This will result in considerable saving for the estate. Equally important is the necessity of naming an alternate executor in the event the first executor cannot serve, or is disqualified from serving.

I hereby nominate, constitute and appoint _____
Name

to be executor of this will and to serve without bond. If for any reason, he shall fail to qualify or cease to act as executor, then I nominate, constitute and appoint as executor

_____ to serve without bond.
Name

14. Powers for Executor

It makes good sense to grant your executor wide powers to manage your estate. This would be easy to do if you have exercised good judgment in your choice of executor. By allowing your executor sufficient discretion, you'll free him from having to seek court approval at every turn. Many states, by statute, grant an executor certain authority and powers. The powers defined below would be in addition to the statutory powers.

In addition to, and not in limitation of all authority, power and discretion granted under applicable law, I authorize my executor:

- (a) to retain any assets which shall come into their possession as a part of my estate;
- (b) to sell or exchange any property contained in my estate, whether real or personal, and in case of sale, to sell at public auction or privately, for cash or credit, and upon such terms and conditions as they may deem best;
- (c) to invest and reinvest in such notes, bonds, debentures, shares of stock (common or preferred) or other securities or property as they, in their sole discretion shall deem best without being confined to such investments as are usual for the investment of trust funds;
- (d) to register and take title to any securities or other property held in my estate in the name of any nominee selected by them, without disclosing this trust;
- (e) to make division or distribution of my estate in kind, money or partly in both, without regard to the income tax basis of any such property, and their valuation of property for such purposes shall be final and binding on all parties interested therein;
- (f) to compromise and adjust any claims against or in favor of my estate upon such terms and conditions as they deem proper;
- (g) to borrow money and renew obligations for my estate without any personal liability on my executors in doing so, and for such purposes to pledge, mortgage, and encumber all or any portion of my estate.

15. Simultaneous Death

Every will should carry some provision for common disaster or simultaneous death. Most states have adopted the Uniform Simultaneous Death Act and this statute contains a presumption that the beneficiary predeceased the testator for purposes of the testator's own property. Many states have anti-lapse statutes that allow the issue

or descendants of the beneficiary under the will some rights. If your will does not include a simultaneous death clause, the share of the beneficiary who perished in the common disaster may pass to his or her heirs under the law. Simultaneous death also causes other problems with regard to increased estate taxes, higher administrative expenses, and generally, does not result in disposition of property according to the testator's wishes. By including a clause in your will, you'll be overriding the effect of any state statutes.

If any beneficiary and I should die under such circumstances as would render it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed for the purposes of my will that said beneficiary predeceased me.

The following states have adopted the Uniform Simultaneous Death Act. Even the states that have not specifically adopted this Act may have similar statutes on their books. Almost all the statutes, however, stipulate that the provisions in a will shall supercede the law.

Alabama, Arkansas, California, Connecticut, District of Columbia, Florida, Georgia, Iowa, Kentucky, Massachusetts, Maryland, Minnesota, Montana, New Jersey, North Carolina, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Washington, Wisconsin, Virginia.

16. Appointment of Guardian

If you have any minor children or expect to have any in the future, your will should provide for the appointment of guardians. A guardian will be necessary for the minor's person as well as the minor's assets. Same individual can serve in both capacities, but often it's advisable to name two separate individuals as guardians. Of course, you must discuss the situation with the possible guardians and obtain their consent to serve as such otherwise the courts may be required to appoint a guardian.

If I have a minor child or children who survive me, then I hereby nominate, constitute and appoint

Name

as testamentary guardian of the person and the property of such minor child or children and, to the extent allowed by law, direct that such guardian shall serve without bond. If the aforementioned guardian dies, resigns, refuses or is otherwise unable to act, then I appoint

Name

as testamentary guardian of the person and property of such minor child or children and direct that he shall also serve without bond.

17. Minor's Share Under Will

In case if you're survived by minor children, it is generally a good practice to include a clause in your will directing the executor to deliver the minor's share of property to the person under whose care the child is living. This may alleviate the involvement of a court-appointed guardian. Of course, in a large majority of cases, the minor children will be living with the surviving spouse.

Whenever in this will, payment is to be made to a minor, or property is to be delivered to such minor, I authorize my executor to pay or deliver the same, in his discretion, to the parent, or to the person having the care, custody or control of such minor, and the receipt of such payee shall be full acquittance to my executor.

18. Against Will Contest

We've discussed in detail elsewhere in this Manual the possible usefulness of a clause admonishing will contests. Even though such a clause may not absolutely prevent a will contest from a disinherited person, the presence of in terrorem clause (against will contest) is well accepted and recommended by most estate planners.

If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

19. Specific Bequest of Body or Organs

As we've noted elsewhere, donation of your body or specific organs should not be a part of your will for the simple reason that it's often too late to honor your wishes in the event your will is not discovered in time by appropriate authorities. You may, however, use the following clause in your will if you so desire.

I, desiring that my body or part thereof be made available upon my death for transplant or for storage until it can be used for transplanting, do hereby give and donate my body to

_____ ,
Name

_____ , _____ .
Address *Telephone No.*

I hereby authorize any medical physician, surgeon or hospital to remove such parts of my body or to hold my body for such purpose.

20. Specific Bequest to Cemetery for Perpetual Care

This clause allows the testator to provide for perpetual care of his cemetery lot. It is usually better to make these arrangements during lifetime.

I give and bequeath to _____
Name of Cemetery

the sum of _____ Dollars for perpetual care of my cemetery lot located
therein.

21. Testimonium Clause

The text of your will should immediately be followed by the testimonium clause which provides for the date of execution of the will and the testator's signature.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this _____ day of _____ , 19 _____ .

22. Attestation Clause

As we've discussed elsewhere in connection with execution of a will, your will must be witnessed by at least three individuals and the strict formality of execution must be observed. The attestation clause below meets the statutory requirements.

The foregoing will consisting of _____ typewritten pages, this included, was this _____ day
of _____ 19 _____ signed, sealed, published and declared by the said testator
as and for his Last Will and Testament in our presence, and we, at his request and in his presence,
and in the presence of each other, have hereunto subscribed our names and witnesses on the above date.

_____	of	_____
<i>Name</i>		<i>Address</i>
_____	of	_____
<i>Name</i>		<i>Address</i>
_____	of	_____
<i>Name</i>		<i>Address</i>

23. Proof of Will

It is recommended that you make your will "self-proving." In many states, a notarized will may be entered for probate without the affidavits of the witnesses or the appearance of any witness. Even in states where there is no provision for self-proving wills, it's a good practice to use the notary. The procedure of notarizing a will is simple enough at the time of execution, and will help avoid any future problems.

AFFIDAVIT

STATE OF _____ City _____
or
COUNTY OF _____ Town _____

Personally appeared (1) _____
(2) _____ and (3) _____

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator and in the presence of each other, and the said Testator signed said Will in their presence and acknowledge that he had signed said Will and declared the same to be his LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator.

(1) _____
(2) _____
(3) _____

Subscribed and sworn to before me this _____ day of _____, 19 _____

Notary Public

Many states have adopted the Uniform Probate Code. If you live in such a state, you may want to use the following Uniform Probate Code testimonium, attestation and notarial clauses.

Testimonium Clause

I, _____, the testator, sign my name to this instrument this _____ day of _____, 19_____, and being first duly sworn, do hereby declare to the undersigned authority that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Attestation Clause

We, _____, and _____, the witnesses, sign our names to this instrument, being first duly sworn and do hereby declare to the undersigned authority that the testator signs and executes this instrument as (his) (her) last will and that (he) (she) signs it willingly, and that each of us, in the presence and hearing of the testator, hereby signs this will as a witness to the testator's signing, and that to the best of our knowledge the testator is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

_____ of _____
Name Address
_____ of _____
Name Address

Notarial Clause

State of _____
County of _____

Subscribed, sworn to and acknowledged before me by _____, the testator, and _____, the witnesses, this _____ day of _____, 19_____.

(Seal) (signed) _____

(Official Capacity of Officer)

Will Checklist

X—Customarily used

O—Optional

XO—Customarily used option

R—Recommended

No.	Clause	
1.	Heading	X
2.	Introductory Clause	X
3.	Identification of Spouse and Children	R
4.	Direction to Pay Debts	O
5.	Direction to Pay All Taxes From Residuary Estate	R
6.	Specific Bequest of Personal Property	XO
7.	Specific Bequest of Stock	XO
8.	Cash Legacy	XO
9.	Forgiveness of a Debt	XO
10.	General Bequest of Personal and Household Effects	X
11.	Specific Devise of Real Property	XO
12.	Residuary Estate	X
13.	Naming an Executor	X
14.	Powers for Executor	X
15.	Simultaneous Death	X
16.	Appointment of Guardian	X
17.	Minor's Share Under Will	O
18.	Against Will Contest	R
19.	Specific Bequest of Body or Organs	O
20.	Specific Bequest to Cemetery for Perpetual Care	O
21.	Testimonium	X
22.	Attestation	X
23.	Proof of Will	X

How to Use the Checklist

1. Each will clause is identified as customarily used (X), optional (O), customarily used option (XO), or recommended (R). The use of customarily used optional clauses would depend upon your individual situation or desires. For example, if you wish to leave a certain amount of cash to a relative or a friend in your will, you would use Clause 8 — Cash Legacy. On the other hand, if you wish to leave your body or organs to humanity, you would use Clause 19, which is an optional clause, and often is not included in a will. But customarily used clauses should be included in every will. These clauses constitute the principal body of the will and are necessary to establish the validity of the will. Recommended clauses will enhance the quality of your will and are generally used by estate planners.
2. The will clauses included in this chapter assume that the person referred to is a male. You should, however, change “he” to “she”, and “his” to “her” as appropriate.
3. Once you have determined who the beneficiaries of your will are and what you wish to leave them, select the appropriate clauses.
4. Type on a white sheet of paper all the selected clauses in the order shown in the checklist. The typewritten will should be neat and error-free. Except for the signatures, everything should be typed. You may follow the format shown in the sample will.
5. Once you’ve prepared the will, sign it in the presence of witnesses. Again, follow meticulously the steps outlined in Chapter 8, “Execution of the Will.”
6. Now place the will in a safe place.

Sample Will
LAST WILL AND TESTAMENT
OF

Testator's Name

1. I, _____,
Testator's Name

a resident of and domiciled in the _____
City/Town

of _____, County of _____,
Name of City/Town

and State of _____, do hereby make, publish and declare this to be my
to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time heretofore made by me.

2. I am married to _____
Name of Spouse

and all references to _____
My Husband/Wife

shall be to _____
His/Her

At the time of the execution of this will, I have the following children:

Names of Children

As used in this will, the words "my children" shall mean the above-named, and any others hereafter born to me, and in addition to my natural children, any child legally adopted by me.

3. I direct that all my just debts, secured and unsecured, be paid as soon as practicable after my death, but my executor shall not be required to pay in advance of maturity any obligation of mine.

4. I direct that all estate, inheritance, succession, death or similar taxes (except generation-skipping transfer taxes), regardless of whether the assets in respect of which such taxes have been imposed pass under this will or otherwise, shall be paid out of my residuary estate passing under will, without apportionment.

5. I give and bequeath to _____,
Name

if he shall survive me, _____
e.g. my diamond ring

If he shall not survive me, then I give and bequeath said _____ to
e.g. diamond ring

_____, if he shall survive me.
Alternate Beneficiary

If he shall not survive me, such property shall be added to and disposed of as my residuary estate.

6. I give and bequeath to _____,
Name

if he shall survive me, the stocks listed below:

Shares

Stock

If he shall not survive me, then this legacy shall lapse and become a part of the residue of my estate.

7. I give and bequeath to _____,
Name

if he shall survive me, the sum of _____,
Dollars

If he shall not survive me, then I give and bequeath said sum to _____,
Name

if he shall survive me. If he shall not survive me, then this legacy shall lapse and become a part of the residue of my estate.

8. I hereby forgive any and all debts owed to me at the time of my death by _____,
Name of Spouse

including interest thereon, and I direct my executor to cancel any promissory notes or other evidences of his indebtedness to me.

9. I give and bequeath all of my personal and household effects of every kind including but not limited to furniture, appliances, furnishings, pictures, silverware, china, glass, books, jewelry, wearing apparel, boats, automobiles, and other vehicles, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property, to _____,
Name of Spouse

if he shall survive me. If my said husband shall not survive me, I give and bequeath all of said property to my children surviving me, in approximately equal share, provided however, the issue of a deceased child surviving me shall take per stirpes the share their parent would have taken had he or she survived me. If my issue do not agree to the division of the said property among themselves, my executor shall make division among them, the decision of my executor to be in all respects binding upon my issue. If any beneficiary hereunder is a minor, my executor may distribute such minor's share to such minor or for such minor's use to any person with whom such minor is residing or who has the care or control of such minor without further responsibility and the receipt of the person to whom it is distributed shall be a complete discharge of my executor.

10. I give and devise to _____,
Name

if he shall survive me, any interest which I own at the time of my death in the house and lot located at

Address

If this property at the time of my death is subject to any mortgage, then this devise shall be subject thereto and the devisee shall not be entitled to have the obligation secured by such mortgage paid out of my general estate.

11. All the rest, residue and remainder of my estate, of whatsoever kind and nature, and wheresoever situated, of which I may be seized or possessed or to which I may be entitled at the time of my death, not hereby otherwise effectually disposed of (including any property over which I have power of appointment) I give, devise and bequeath to _____,
Name (e.g. Spouse)

if he shall survive me. If he shall not survive me, then I give, devise and bequeath the residuary estate to

_____ equally.
Names (e.g. Children)

12. I hereby nominate, constitute and appoint _____,
Name

to be executor of this will and to serve without bond. If for any reason, he shall fail to qualify or cease to act as executor, then I nominate, constitute and appoint as executor _____,
Name

to serve without bond.

13. In addition to, and not in limitation of all authority, power and discretion granted under applicable law, I authorize my executor:

(a) to retain any assets which shall come into their possession as a part of my estate;

(b) to sell or exchange any property contained in my estate, whether real or personal, and in case of sale, to sell at public auction or privately, for cash or credit, and upon such terms and conditions as they may deem best;

(c) to invest and reinvest in such notes, bonds, debentures, shares of stock (common or preferred) or other securities or property as they, in their sole discretion shall deem best without being confined to such investments as are usual for the investment of trust funds;

(d) to register and take title to any securities or other property held in my estate in the name of any nominee selected by them, without disclosing this trust;

(e) to make division or distribution of my estate in kind, money or partly in both, without regard to the income tax basis of any property, and their valuation of property for such purposes shall be final and binding on all parties interested therein;

(f) to compromise and adjust any claims against or in favor of my estate upon such terms and conditions as they deem proper;

(g) to borrow money and renew obligations for my estate without any personal liability on my executors in doing so, and for such purposes to pledge, mortgage, and encumber all or any portion of my estate.

14. If any beneficiary and I should die under such circumstances as would render it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed for the purposes of my will that said beneficiary predeceased me.

15. If I have a minor child or children who survive me, then I hereby nominate, constitute and appoint

_____ as
Name

testamentary guardian of the person and the property of such minor child or children and, to the extent allowed by law, direct that such guardian shall serve without bond. If the aforementioned guardian dies, resigns, refuses or is otherwise unable to act, then I appoint _____

_____ as testamentary
Name

guardian of the person and property of such minor child or children and direct that he shall also serve without bond.

16. Whenever in this will, payment is to be made to a minor, or property is to be delivered to such minor, I authorize my executor to pay or deliver the same, in his discretion, to the parent, or to the person having the care, custody or control of such minor, and the receipt of such payee shall be full acquittance to my executor.

17. If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this _____ day
of _____, 19_____.

The foregoing will consisting of _____
Number

typewritten pages, this included, was this _____
day of _____, 19_____, signed, sealed,

published and declared by the said testator as and for his Last Will and Testament in our presence, and we, at his request and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses on the above date.

_____ of _____
Name Address

_____ of _____
Name Address

_____ of _____
Name Address

AFFIDAVIT

STATE OF _____ CITY _____

COUNTY OF _____ or TOWN _____

Personally appeared (1) _____

(2) _____ and (3) _____

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator and in the presence of each other, and the said Testator signed said Will in their presence and acknowledged that he had signed said Will and declared the same to be his LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Will the said Testator appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the testator.

(1) _____

(2) _____

(3) _____

Subscribed and sworn to before me this _____

day of _____, 19 _____.

Notary Public

Chapter 14

Miscellaneous Clauses in Your Will

Debts and Funeral Expenses

In nearly all jurisdictions, the executor of the estate is required to pay all debts and funeral expenses of the decedent as a matter of law. A typical clause to provide for the payment of debts and funeral expenses may be as follows:

Payment of Debts

I direct that all my just debts and funeral expenses be paid as soon after my death as may be practicable.

Such clauses, however, serve no useful purpose and may even create problems and confusion. Since the law requires that such payments be made, your saying it in the will makes no sense. Many estate planners discourage the use of this clause on the grounds that it may actually be construed as a directive to pay debts that are barred by the statute of limitations, or even debts that are not legally enforceable. Such a clause may even be interpreted as to create an implied trust in the creditors. In addition, it creates an ambiguity as to whether certain debts should be paid out of the estate or be borne by legatees of specific assets which carry these obligations.

Therefore, a directive to pay debts may be surplusage in that it may not diminish the statutory rights of a creditor, but may not be surplusage to the extent it enhances the statutory rights of a creditor, affects a gift to a devisee, or modifies the duties of the executor. Many well-written wills omit any reference to debts and funeral expenses. This should not, however, prevent you from directing your executor to pay certain specific obligations. A will may ask the executor to pay a debt owed to a friend or a pledge made to charity. Such directions may also benefit the estate by qualifying the payments as tax deductions.

Funeral Instructions

Many people include in their wills the specific instructions about the manner, time and place of burial and the disposition of their remains. Some people prefer cremation or desire to donate their organs or body for scientific use or for transplant purposes. A will is not considered a good place for such instructions. Too often a testator is buried before his will is discovered.

There are a couple of other ways to leave burial instructions. One is to include them in a codicil to the will, and give a copy of the codicil to the responsible members of the family or to the designated executor. Another way is to put burial instructions in a separate written letter. Remember, your instructions concerning the burial or the disposition of your body are not considered testamentary dispositions since there are no property rights involved. Nonetheless, most states require that the written burial instructions of a deceased person "shall be faithfully and promptly performed." You should leave such instructions in a safe and readily accessible place or give them to your spouse or next of kin.

You may want to use something similar to the following:

Funeral and Burial Instructions

I direct that my funeral be conducted by Little Company of Mary Chapels according to the rites of the Roman Catholic Church, and that my remains be interred in the plot I have purchased in Evergreen Cemetery in Lincoln, Nebraska.

Disinheritance

Many people harbor a misconception that, in order to disinherit a person, the person should be given a nominal amount of \$1. This certainly is not true. The law does not force you to leave a certain share of your estate to your children or other members of your family. You may have a moral obligation to provide for your children, but this does not turn into a legal duty. As we've discussed elsewhere in this Manual, there is, however, an exception with regard to the right of the surviving spouse. Most states dictate that your surviving spouse share in your estate at least as much as he or she would have received if you had died intestate.

Nevertheless, it's recommended that if you wish to disinherit a particular member of your family, you should make a specific mention in your will of the individual and your desire to disinherit him or her. This would lessen the chances of a will contest on the grounds of testamentary capacity. If you have disinherited your child by name in your will, the state law cannot grant the child a share equal to his or her intestate share. This would apply even to some other assets that you may not have disposed of in your will. By making a mention in the will, you would remove any ambiguity as to your true intentions.

Disinheritance Clause

Insofar as I have failed to provide in this Will for any of my issue, whether born before or after the date of this will or before or after my death, such failure is intentional and not occasioned by accident or mistake.

No Contest

Many wills contain a provision that anyone who challenges the validity of the will shall automatically lose his share under the will. This is usually done to discourage a disgruntled heir from starting a legal battle over the terms of the will. Most wills contain such a clause and it's recommended that your will should contain some such admonishment, but you should keep in mind that the true impact of a no contest clause is generally less than that perceived.

A person who has been disinherited in the will has nothing to lose by contesting the will. If he wins the contest the entire will including the no contest clause will be considered invalid, and he could not be punished for starting the contest. If he loses, he hasn't lost anything. A will contest helps only someone who would inherit a larger share under the state intestacy laws. If a will is set aside, the state will distribute the estate as if the decedent had left no will.

Will Contest Clause

If any beneficiary under this will in any manner, directly or indirectly, contests or attacks this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me without issue.

Anatomical Gifts

Many states have adopted the Uniform Anatomical Gift Act which deals with the donation of all or a part of the human body. Presently there is a great need for specific body organs for transplantation purposes. You can also donate your body to a medical school for research. Many people are not aware that there exists a very simple procedure in almost all the states to accomplish such a humanitarian act. If you want to leave your body or organs to help humanity, you must take actual steps, otherwise it won't happen.

Under the Uniform Anatomical Gift Act, a gift of a whole body or certain organs can be made either by executing a Uniform Donor Card or by a will. If made by a will, the gift becomes effective upon the testator's death without waiting for probate. Also, the donation is effective regardless of the validity of the will. You can deliver your Donor Card or your instructions in the will to any hospital or medical facility or an organ bank or a specific individual

needing the transplant. In many states, specific bequest of body or an organ may be noted on the person's driver's license.

You can revoke your donation by delivering to the same facility or the individual a signed statement of revocation. If the donation was included in your will, you can revoke it by preparing a codicil.

An example of a Uniform Donor Card is shown on the next page.

The following states have adopted the Uniform Anatomical Gift Act: Alabama, Arkansas, California, Colorado, District of Columbia, Florida, Illinois, Indiana, Massachusetts, Maryland, Minnesota, Missouri, North Carolina, North Dakota, New Mexico, New York, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin.

Even in the states that have not adopted the Uniform Anatomical Gift Act, it may be possible to make a gift of eyes or a body or an organ by executing the Uniform Donor Card shown here.

Uniform Donor Card

of _____
Print or type name of donor

In the hope that I may help others, I hereby make this anatomical gift, if medically acceptable, to take effect upon my death. The words and marks below indicate my desires.

I give: (a) _____ any needed organs or physical parts.

(b) _____ only the following organs or physical parts:

Specify the organ(s) or physical part(s)
for the purpose of transplantation, therapy, medical research
or education;

(c) _____ my body for anatomical study if needed.

Limitations or special wishes, if any: _____

Signed by the donor and the following 2 witnesses in the presence of each other:

Signature of donor

Date of birth of donor

Date signed

City and State

Witness

Witness

Chapter 15

How to Change or Revoke a Will

You can change or revoke your will as often as you wish once it's properly written and executed, but you must do it according to a procedure prescribed by law. You cannot simply add, delete or change a provision in your will. It may only invalidate the entire will.

Generally, when you make a will, you should insert a clause in the will revoking all prior wills you may have made. You can do it as follows:

I, John Smith of New York, N.Y., do hereby make, publish and declare this to be my Last Will and Testament. I hereby revoke all wills and codicils made by me at any time heretofore.

You can also burn or physically destroy a prior will. There is some differing opinion as to whether this is advisable to do. If your last will is substantially similar to the one prior to it, you may want to preserve them both. If for any reason your last will is held invalid, your former will may be offered for probate. Just because the last will was invalidated does not necessarily mean that all prior wills, properly executed, will also be invalidated.

There is another consideration involved in preserving prior wills. If someone attempts to challenge the validity of a will on the grounds of testamentary capacity of the decedent or on account of undue influence, a prior will, which also similarly excludes the disgruntled person from inheritance, may be offered for probate. A person is less likely to attack a will if he knows that he has been left out of a successive number of them.

On the other hand, if there are substantial changes from former wills, it may be better to destroy such wills, since saving the former wills affords a disinherited person in the latter will an opportunity to contest.

If you have left your will in the hands of a lawyer or a trust company for safekeeping, it's not necessary to retrieve it in order to revoke it. It's only your last will (which revokes all prior wills) that counts.

Duplicate Wills

An original will should never be executed in duplicate or triplicate. If one of the several originally-executed wills is lost, courts are likely to hold that the testator intended to revoke his will. This may result in property being disposed of as if the testator had died without a will.

Codicils

A codicil is an amendment or a supplement to the will. A codicil does not supersede or totally revoke the will, but it becomes part of the will. The codicil must be signed, witnessed and executed with all the formality of an original will. It should identify the old will, stating the date when it was executed, and indicate the changes made to the will. If changes you wish to make are substantial, it is generally advisable to draft a new will instead of preparing a codicil to amend the old one. After all, both require the same formality of execution. An ill-prepared codicil may leave doubts as to the true intent of the testator. Also, if a person named in the will to receive a sizeable sum of money is later disinherited in the codicil, he is likely to have the codicil overturned. Remember, just because a codicil is held invalid does not mean that the will will also be held invalid.

A codicil is often used to change designation of an executor, guardian or trustee. It's also used to dispose of property acquired after the execution of the original will. Sometimes a person named in the will has died, and now you wish to distribute that person's share to someone else. A codicil will do the job. Special care should be taken to avoid any conflict between the provisions of the codicil and the provisions of the will.

Note: Use of a codicil should be limited to some minor changes only. Many states including New York require that every party adversely affected by a codicil must be made a party to the probate proceeding.

A sample codicil is shown below. In preparing your codicil, you can use substantially the same language as used in the sample. We have also provided a few specific clauses that might be applicable to your circumstances. Make appropriate changes in the language and/or fill in the blanks.

Sample Codicil

I, _____, of _____ do hereby make, publish and declare this to be the First Codicil to my Last Will and Testament, dated _____, 19_____.

Whereas, by the said will, paragraph six, I gave and bequeathed to my nephew, _____, the sum of _____ dollars;

And whereas, my said nephew, _____, has since died and his said legacy has lapsed;

I do now hereby give and bequeath the said sum so bequeathed to my said nephew as aforementioned, to and among such of his children as shall be living at the time of my death, equally to be divided among them, the share or respective shares to such child or children to be paid, assigned, and transferred to them when they shall respectively reach the age of 21 years. I direct that the interest of the said sum shall, during such suspense and payment, be applied by my executor toward maintenance and education or otherwise for the benefit of such children respectively.

In all other respects, I confirm and republish my will dated _____, 19_____. In witness whereof, I have hereunto set my hand and seal this _____ day of _____, 19_____.

Signed

The foregoing Codicil was signed, sealed, published and declared by _____ as and for a First Codicil to his Last Will and Testament and he did also republish and reaffirm said Last Will and Testament as by this First Codicil amended as and for his Last Will and Testament in our presence and we, at his request and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses on the above date.

_____ of _____
_____ of _____
_____ of _____

AFFIDAVIT

STATE OF _____ City _____
or
COUNTY OF _____ Town _____

Personally appeared (1) _____
(2) _____ and (3) _____

who being duly sworn, depose and say that they attested the said Will and they subscribed the same at the request and in the presence of the said Testator and in the presence of each other, and the said Testator signed said Codicil to Will in their presence and acknowledged that he had signed said Codicil to Will and declared the same to be his first Codicil to his LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said Codicil to Will the said Testator appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the Testator.

(1) _____
(2) _____
(3) _____

Subscribed and sworn to before me this _____
day of _____, 19 _____.

(Notary Seal)

Notary Public

Below are some other illustrations of clauses you may wish to use in preparing a codicil.

Introductory Clause

I, _____, of _____ do hereby make, publish and declare this to be the First Codicil to my Last Will and Testament, dated _____, 19_____.

Specific Revocation of an Item and Substitution of a New Item in its Place

I do hereby revoke in its entirety Item _____ of my Last Will and Testament dated _____ and substitute in lieu thereof a new Item with the same number which Item shall read as follows:

Nominating a New Executor

If for some reason you wish to appoint a different executor than one mentioned in the will, you should use the following clause:

Whereas, by the said will, I nominated, constituted and appointed _____
Name to serve as executor of my will;
And whereas, _____
Name is now unable to serve as executor;
I do hereby nominate, constitute and appoint _____
_____ to serve as executor instead,
Name
and direct that he shall serve without bond.

Republication of Will

I hereby republish and reaffirm my said Last Will and Testament as herein modified, amended and supplemented by this _____ Codicil as if the same were set out *e.g. First* here in full and do incorporate the same by this reference thereof, and do hereby republish and declare my said Last Will and Testament as amended, modified and supplemented as my Last Will and Testament.

When Should You Review Your Will?

Once a will is written and executed, it's hardly the end of your estate planning process. A will is a dynamic instrument and it should be reviewed and revised as new laws are enacted, your status changes, needs of the members of your family change, or as you acquire new property.

An annual review of your family estate plan is a necessity. Below is a list of some of the reasons why you may want to update your will to reflect the changed circumstances:

1. Changes in federal or state tax laws.
2. Change in your marital status — married, divorced or remarried.
3. Change in family situation: newborn or adopted children, adult children getting married, death in the family.
4. Your financial condition has changed. You may have acquired new assets, business or have made substantial changes in your holdings.
5. There has been a change in the financial condition of beneficiaries under the will. Their needs may have changed too.
6. You want to reconsider the designation of beneficiaries.
7. You have set up a trust or used other estate planning methods, and now need to modify the will.
8. You have moved from one state to another.

In any case, it's recommended that you review your will on a regular basis and make necessary changes.

Chapter 16

What Your Executor Should Know

In order for the executor to discharge his duties effectively, he needs to have in his possession all the essential information about your estate. As part of your will-writing process, you must prepare an Estate Planning Sheet similar to the one included in this Manual. You must also update this information from time-to-time. The purpose of this asset inventory is to convey to your executor accurate information about your assets so that he can properly collect them and distribute them to your heirs.

Here we've provided a summary of information that you should leave for your executor:

1. A complete list of bank accounts, insurance policies, stocks and securities, and other liquid assets. Make sure you provide your broker's name, address and account number. Also provide names of co-owners, if any.
2. The location of all documents the executor will need immediately — your most recent will, cemetery plot deed or number, funeral instructions, marriage license, divorce decree.
3. A list of all your real estate holdings including mortgages and any insurance carried.
4. Details about your retirement benefit plans from your past and present employers. If you were in the armed forces or with a government agency, provide sufficient information including your serial number.
5. The name of the person who prepared your federal income tax returns, at least for the past three years.
6. A list of all money, jewelry or other property you've lent to others.
7. A list of all your debts, including insurance policy loans and tax assessments.
8. The whereabouts of copies of all the federal gift tax returns you have ever filed. These would be necessary to show that the gifted property isn't part of your estate.
9. A list of all documents that could establish the value of various properties you own or the price that your executor could get for them.

This list does not have to be formal. It could simply be in the form of a letter to your executor. Put the letter in a sealed envelope with your executor's name on it. Attach the envelope to your will and put it in a safe place.

Chapter 17

Estate Planning Sheets

On the following pages, you'll find Estate Planning Sheets that will go a long way toward ensuring a smooth disposal of your estate. Form PS-1 contains basic information about you and your family. Additionally, it has all the vital information and the location of important documents that the executor of the estate will need. If these documents are not readily located, the probate of your will may be delayed. A copy of this form should be given to your spouse or other responsible member of the family.

Form PS-2 deals with your financial affairs and provides an overview of your gross estate. Often, when a person dies, his family is completely ignorant about the life insurance carried by the decedent, stocks and bonds held in the portfolio or the real estate obligations. This results in unnecessary confusion and aggravation. Key information about your assets and liabilities should be readily available to your spouse or executor.

Family Information

PS-1

Name _____ Date of Birth _____

Social Security No. _____ Occupation _____

Spouse _____ Date of Birth _____

Social Security No. _____ Occupation _____

Home Address _____

Business Address _____

Telephone: Home _____ Business _____

Date of Marriage _____ Date of Divorce _____

Former Spouse _____

Children:

Name

Date of Birth

Married

Key Advisors

Attorney _____

Accountant _____

Banker _____

Stockbroker _____

Insurance Agent _____

Physician _____

Clergyman _____

Other _____

Key Personal Papers

	Item	Location
Certificates:	Birth	_____
	Adoption	_____
	Baptismal	_____
	Will (Original, Copy)	_____
	Trust Instruments	_____
	Antenuptial Agreement	_____
	Postnuptial Agreement	_____
	Burial Instructions	_____
	Social Security Card	_____
	Military Service Record	_____
	Medical Records	_____
	Retirement/Pension Records	_____
	Stocks	_____
	Bonds	_____
	Brokerage Statements	_____
	Bank Reports	_____
	Income Tax Returns	_____
	Gift Tax Returns	_____
	Promissory Notes	_____
	Mortgages Receivable	_____
	Real Property Deeds	_____
	Cemetery Deed	_____
	Life Insurance Policies	_____
	Other Insurance Policies	_____
	Business Agreements	_____
	Miscellaneous	_____

Summary of Assets

PS-2

Assets	Husband	Wife	Jointly Owned
Cash	\$ _____	\$ _____	\$ _____
Stocks	_____	_____	_____
Bonds	_____	_____	_____
Personal Residence	_____	_____	_____
Other Real Property	_____	_____	_____
Life Insurance	_____	_____	_____
Employee Benefits	_____	_____	_____
Miscellaneous	_____	_____	_____
TOTAL	\$ _____	\$ _____	\$ _____

Life Insurance Policies

Company _____ Policy No. _____

Address _____

Type of Policy _____ Face Value _____

Ownership Rights _____

Beneficiary Designation _____

Cash Value _____ Annual Premiums _____

Settlement Options _____

Company _____ Policy No. _____

Address _____

Type of Policy _____ Face Value _____

Ownership Rights _____

Beneficiary Designation _____

Cash Value _____ Annual Premiums _____

Settlement Options _____

Company _____ Policy No. _____

Address _____

Type of Policy _____ Face Value _____

Ownership Rights _____

Beneficiary Designation _____

Cash Value _____ Annual Premiums _____

Settlement Options _____

**Stocks, Bonds, Mutual Funds and
Other Investments**

Description	No. of Shares	Date Acquired	Cost Basis	Location
_____	_____	_____	\$ _____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total \$ _____

Real Estate

Description and _____

Location _____

Date of Purchase _____ Purchase Price _____

Title _____

Mortgage Holder _____ Mortgage Amount _____

Location of Records _____

Real Estate

Description and

Location _____

Date of Purchase _____ Purchase Price _____

Title _____

Mortgage Holder _____ Mortgage Amount _____

Location of Records _____

Real Estate

Description and

Location _____

Date of Purchase _____ Purchase Price _____

Title _____

Mortgage Holder _____ Mortgage Amount _____

Location of Records _____

Business Interests

Name of Business _____

Address _____

State of Incorporation _____

Ownership

Name	Age	% Ownership
_____	_____	_____
_____	_____	_____
_____	_____	_____

Business Agreements

Type _____ Funding _____

Valuation Method _____

Date of Last Review _____

Capitalization (for Corporation)

	Par	Annual Income	Total Authorized	Total Issued	Callable
Common Stock	_____	_____	_____	_____	_____
Preferred Stock	_____	_____	_____	_____	_____
Debentures	_____	_____	_____	_____	_____

Value of Business

Book Value _____ Market Value _____

Liquidation Value _____ Goodwill _____

Revenues _____ Net Income _____

Miscellaneous Assets

Personal Effects

	Husband	Wife	Joint
Furniture	\$ _____	\$ _____	\$ _____
Automobiles	_____	_____	_____
Jewelry	_____	_____	_____
Artworks	_____	_____	_____
Boats	_____	_____	_____
Total	\$ _____	\$ _____	\$ _____

Notes, Accounts Receivable, Mortgages

Debtor	Description	Security	Maturity	Yield	Value	Balance
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Lease Holds

Lessor	Description	Term	Annual Revenue
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Chapter 18

Safekeeping of Your Will

Your will is an important document and it should be stored in a safe but easily accessible place. Death brings a great deal of turmoil and anxiety in the lives of the surviving members of the family. You do not need to exacerbate this atmosphere of uncertainty by making them hunt down the important papers that they'll immediately need. Your will should be readily available to your executor so that he or she can proceed to put your estate plan into operation.

A safe deposit box rented at a local bank is customarily used to store the will and other important documents. In almost all the states, banks, either under state law or as a matter of general practice, will allow an immediate member of the family or an executor of the estate access to the safe deposit box for the specific purpose of retrieving the will document. In many instances, banks are required to forward the will directly to the probate court or other appropriate authority.

As far as we can determine, storing your will in a safe deposit box presents no great difficulty. However, in some states, such as New York, if your will is in a bank safe deposit box and the box is rented in your name either as a sole tenant or as joint tenant, the box has to be opened in the presence of a state tax commission representative. A substantial delay could result.

We would recommend one of the following methods of safekeeping your will:

1. If you live in a state in which the state tax representative need not be present when the box is opened, rent the box in the names of yourself and your spouse as joint tenants. On one person's death, the other may properly open the box.
2. There is another preferred way of safekeeping your will. You place your will in a box rented in your spouse's name and vice-versa. Thus, your will is immediately available to your spouse.
3. You can also leave the original will with your attorney, a trusted friend, the executor of your estate, or some such person. Be sure to keep a copy of the will in your home or a bank deposit box.
4. Many states permit a testator to deposit his or her will with the probate court or a registry of wills or some such authority. We do not believe this practice is very widely followed. It's rather inconvenient to go to court everytime you need to make a change in your will.

In another chapter in the Manual, we've commented upon the generally accepted practices for safekeeping your will in many states. Safe deposit boxes are universally accepted as the best place to store your will.

Chapter 19

State Supplementary Comments

In this chapter, we've summarized certain general practices regarding the safekeeping of wills in various states, and some other differences in the law of wills. It must be noted that these are only a few random observations and omission of a state in this schedule has no significance other than to suggest that the law and practices in that state substantially conform to what has been laid out elsewhere in this Manual.

As a further note, the will forms provided in the Manual are legal in all fifty states. You may also use the various clauses included in Chapter 13 to write your own "customized" version of the will. All the will forms contain the provision for making them "self-proving." The procedure outlined for execution of a will in Chapter 8 exceeds the requirements of many states and is sufficient for valid execution in all states.

In short, the comments in this chapter are meant to supplement the information provided elsewhere in the Manual. The form, content and execution of a will remain uniform in all fifty states.

ALABAMA

—In Alabama, there is no procedure to deposit wills in probate court prior to the death of a testator. If the decedent was the sole owner of a safe deposit box, Alabama banks have generally allowed family members access to the safe deposit box for the sole purpose of removing the will or other estate planning documents for probate.

—The Uniform Simultaneous Death Act has been adopted in Alabama but it requires that a devisee survive decedent for five days unless the will provides otherwise.

—Under the Uniform Anatomical Gift Act of Alabama, specific bequest of body or an organ may be noted on a valid Alabama driver's license.

—Alabama law provides for self-proved wills. Use the format of wills supplied in the Manual.

CONNECTICUT

—In Connecticut, the witnesses should not be beneficiaries since a gift to them or their spouse will be void — unless the beneficiary is an heir of the testator. Although the gift may be void, the competency of the witness will not be affected.

DISTRICT OF COLUMBIA

—In Washington, D.C. the Office of the Register of Wills charges \$25 to attend a safe-deposit box opening for the purpose of obtaining a will. If the will is in a jointly held safe-deposit box, a representative from the D.C. Department of Finance and Revenue must attend at the opening. It is recommended that you leave your will with the executor of the estate.

—There is no self-proving will in the District of Columbia. Use of a notary public to attest the signatures adds nothing to the will but is considered harmless.

FLORIDA

—In Florida, the safe-deposit box will not be sealed upon the death of a decedent.

—Florida law provides that a will is not invalid because it is signed by an interested witness.

GEORGIA

—In Georgia, a will may be filed in the office of the judge of the probate court of the county where the testator lives.

ILLINOIS

—Wills are normally kept in a safe-deposit box since the box is not sealed at death.

—Under Illinois law, either a properly worded attestation clause signed by the witnesses and forming a part of the will or an affidavit signed at or after the time of the attestation will constitute sufficient proof of will in the absence of fraud or improper conduct.

IOWA

—Iowa law provides that wills of living testators may be filed with the clerk of court. If left in a safe-deposit box, upon request from a close relative of the decedent or the executor of the estate, the bank is required to deliver the will document to the court.

KENTUCKY

—For a nominal fee, the will may be deposited by the testator with the district clerk of the county of his residence. A representative of the Kentucky Department of Revenue is required to be present at the opening of the safe-deposit box to find the will.

MARYLAND

—A will may be lodged with the Register of Wills for safekeeping. It is best to leave it with your spouse or the executor of the estate.

—Self-proving wills are not necessary in Maryland.

MASSACHUSETTS

—Wills may be deposited for safe-keeping with the local Registries of Probate for a fee of \$15.

—Gifts of the whole body or any part can be made by will or by a separate instrument of anatomical gift. A anatomical donor card can be obtained from the Register of Motor Vehicles.

MICHIGAN

—It is not recommended that the testator's executed will be placed in his safe-deposit box. It is preferable that it be deposited with the probate court.

—Michigan is not a community property state. However, if you once resided in a community property state and acquired community property assets, and later moved to Michigan, the state will recognize such assets as community property assets.

—In Michigan, a will may be admitted to probate upon the testimony of only one of the subscribing witnesses. Use of a self-proving will provided in this Manual will eliminate even this requirement.

MINNESOTA

—There is a provision to deposit the will with the probate court in the county where the testator lives.

MISSOURI

—A will can be filed with the Probate Division of the Circuit Court although this procedure is not commonly used. If left in a safe-deposit box, a bank will deliver the will to the appropriate court.

—Small estates can be disposed of under the independent administration provision by an executor without the supervision of court.

NEW JERSEY

—The state law allows opening of the safe-deposit box held in the decedent's name to find the will document.

NEW MEXICO

—A will may be deposited with the clerk of any district court for safekeeping.

NEW YORK

—A court order is required to open a safe-deposit box after a testator's death. A representative of the state tax commission must be present at the opening, so there may result a delay of several days before a will is retrieved. Use of a jointly-held box or a box owned by the executor is recommended.

NORTH CAROLINA

—A will can be deposited with the clerk of the superior court for safekeeping.

—North Carolina law makes a broad grant of powers to a personal representative in addition to thirty-two specific powers which every executor is deemed to have.

NORTH DAKOTA

—Access to a safe-deposit box is prohibited after death until an inventory of the contents is prepared. This inventory must be forwarded by the bank to the Tax Commissioner.

—A will is not invalid because an interested person signed as witness.

OHIO

—A will may be deposited by the maker with the Probate Judge. If left in a safe-deposit box, it can be removed upon death of the testator without a tax release or inventory by the tax commissioner.

—In Ohio a testator may in his will confer power upon a person to nominate an executor or a successor executor.

—A witness is not required to appear to probate the will unless demanded by an interested party.

OREGON

—A safe-deposit box is customarily used to store a will.

PENNSYLVANIA

—Wills left in a safe-deposit box are relatively easy to access after death.

RHODE ISLAND

—The state allows a will to be deposited with the Probate court, but this practice is not followed very widely. A safe-deposit box is recommended.

—In Rhode Island, a joint bank account may be a “true” joint account with the right of survivorship or merely a “convenience” account that becomes part of the estate. Your will should clarify the nature of the joint account.

SOUTH CAROLINA

—There is no provision for self-proving wills in the state. You may omit the notarization of signatures provided for in the wills in this Manual.

TENNESSEE

—Safe-deposit box is recommended for safekeeping the will.

—A Tennessee driver’s license carries a statement permitting the licensee to make an anatomical gift of body or part thereof.

TEXAS

—Texas law provides for using the county clerk as a safe repository of one’s will. However, a bank safe-deposit box may be more convenient.

—Texas is a community property state. There can be no joint tenancy with right of survivorship of community property between spouses unless the property is first partitioned into the separate property of the spouses.

—In Texas, an independent administration is more efficient and less expensive than a court supervised administration. The will should specifically name an Independent Executor for this purpose.

UTAH

—Utah has no statutory restrictions on the timing or amount of charitable gifts by will except for the spouse’s elective share.

—Utah authorizes a will to be deposited with the county clerk for safekeeping, but this procedure is seldom used.

WISCONSIN

—A testator may deposit his will with the Register in Probate of the court in the county in which he resides. Safe-deposit boxes are generally used for safekeeping of wills.

—Will forms provided in this Manual conform to Wisconsin laws regarding “self-proving wills.”

Chapter 20

California Will Supplement

It is estimated that 43% of adult Californians and 68% of parents with minor children don't have a will. Keeping in mind this large populace without a will, the California legislature has drafted two statutory will forms. For many people these forms will de-mystify the will-writing process. It also removes the notion that you always have to have an attorney to write a will.

There are two will forms:

1. California Statutory Will
2. California Statutory Will with Trust

Both of these forms contain standard instructions.

These forms were designed for many Californians who have a very straightforward disposition plan. Previously many of these people had either no will at all or had only a hand-written will, often of dubious validity. Obviously the statutory will forms will be a boon to these people. For them, the will-writing will be a very simple process. However, before you use the forms, you should realize the limited circumstances under which they are applicable.

For starters, the forms can be used only by married persons. If you're unmarried, you are out of luck as far as these statutory forms are concerned. You cannot alter the forms in any manner whatsoever. All of your personal property including automobile and household items can be given only to your spouse. You do not have the freedom to bequeath specific items to other individuals. All of your other property either can go to your spouse or to your children in entirety.

The forms do allow you to nominate an executor for your estate, a guardian for your minor children, and a trustee if you so wish. More importantly, the forms give you a choice of waiving the requirement of a bond of any of these fiduciaries.

California Statutory Will and California Statutory Will with Trust forms are shown on the following pages. If you decide to use them, follow the simple instructions they carry. Use a pen or a typewriter to fill in the blanks. Be sure to sign the will in the presence of witnesses and have them sign at the same time too.

CALIFORNIA STATUTORY WILL

NOTICE TO THE PERSON WHO SIGNS THIS WILL:

- 1. IT MAY BE IN YOUR BEST INTEREST TO CONSULT WITH A CALIFORNIA LAWYER BECAUSE THIS STATUTORY WILL HAS SERIOUS LEGAL EFFECTS ON YOUR FAMILY AND PROPERTY.**
- 2. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR DEATH TO ANY PERSON BY OPERATION OF LAW OR BY ANY CONTRACT. FOR EXAMPLE, THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS OR YOUR SPOUSE'S SHARE OF COMMUNITY PROPERTY, AND IT WILL NOT NORMALLY APPLY TO PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENEFITS.**
- 3. THIS WILL IS NOT DESIGNED TO REDUCE DEATH TAXES OR ANY OTHER TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A COMPETENT TAX ADVISOR.**
- 4. YOU CANNOT CHANGE, DELETE, OR ADD WORDS TO THE FACE OF THIS CALIFORNIA STATUTORY WILL. YOU MAY REVOKE THIS CALIFORNIA STATUTORY WILL AND YOU MAY AMEND IT BY CODICIL.**
- 5. IF THERE IS ANYTHING IN THIS WILL THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.**
- 6. THE FULL TEXT OF THIS CALIFORNIA STATUTORY WILL, THE DEFINITIONS AND RULES OF CONSTRUCTION, THE PROPERTY DISPOSITION CLAUSES, AND THE MANDATORY CLAUSES FOLLOW THE END OF THIS WILL AND ARE CONTAINED IN THE PROBATE CODE OF CALIFORNIA.**
- 7. THE WITNESSES TO THIS WILL SHOULD NOT BE PEOPLE WHO MAY RECEIVE PROPERTY UNDER THIS WILL. YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS WILL. ALL OF THE WITNESSES MUST WATCH YOU SIGN THIS WILL.**
- 8. YOU SHOULD KEEP THIS WILL IN YOUR SAFE DEPOSIT BOX OR OTHER SAFE PLACE.**
- 9. THIS WILL TREATS MOST ADOPTED CHILDREN AS IF THEY ARE NATURAL CHILDREN.**
- 10. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.**
- 11. IF YOU HAVE CHILDREN UNDER 21 YEARS OF AGE, YOU MAY WISH TO USE THE CALIFORNIA STATUTORY WILL WITH TRUST OR ANOTHER TYPE OF WILL.**

INSTRUCTIONS contained in California Probate Code Sections 56.1, 56.2, 56.4, and 56.6:

1. Any person of sound mind and over the age of 18 may execute a California Statutory Will under the provisions of this chapter.
2. The only method of executing a California Statutory Will is for the following to occur:
 - (a) The testator shall do the following:
 - (1) Complete the appropriate blanks.
 - (2) Sign the will.
 - (b) The witnesses shall do the following:
 - (1) Observe the testator's signing.
 - (2) Sign their names in the presence of the testator.The execution of the attestation clause provided in the California Statutory Will by two or more witnesses shall satisfy Section 329.
3. If more than one property disposition clause appearing in paragraph 2.3 of a California Statutory Will Form is selected, or if none is selected, the property of a testator who signs a California Statutory Will shall be distributed to the testator's heirs as if the testator did not make a will.
4. (a) A California Statutory Will may be revoked and may be amended by codicil in the same manner as other wills.
(b) Any additions to or deletions from the California Statutory Will on the face of the California Statutory Will Form, other than in accordance with the instructions, shall be ineffective and shall be disregarded.

CALIFORNIA STATUTORY WILL OF

(Insert Your Name)

Article I. Declaration

This is my will and I revoke any prior wills and codicils.

Article 2. Disposition of My Property

2.1 PERSONAL AND HOUSEHOLD ITEMS.

I give all my furniture, furnishings, household items, personal automobiles and personal items to my spouse, if living; otherwise they shall be divided equally among my children who survive me.

2.2 CASH GIFT TO A PERSON OR CHARITY.

I make the following cash gift to the person or charity in the amount stated in words and figures in the box which I have completed and signed. If I fail to sign in the box, no gift is made. If the person mentioned does not survive me, or the charity designated does not accept the gift, then no gift is made. No death tax shall be paid from this gift.

FULL NAME OF PERSON OR CHARITY TO RECEIVE CASH GIFT. (Name only one. Please print.) _____	AMOUNT OF GIFT: \$ _____
	AMOUNT WRITTEN OUT: _____ Dollars
	_____ Signature of Testator

2.3 ALL OTHER ASSETS. (MY "RESIDUARY ESTATE").

I adopt only one Property Disposition Clause in this paragraph 2.3 by writing my signature in the box next to the title of the Property Disposition Clause I wish to adopt. I sign in only one box. I write the words "not used" in the remaining boxes. If I sign in more than one box or if I fail to sign in any box, the property will go under Property Disposition Clause (c) and I realize that means the property will be distributed as if I did not make a will.

PROPERTY DISPOSITION CLAUSES (Select one.)

(a) TO MY SPOUSE, IF LIVING; IF NOT LIVING, THEN TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD.....

(b) TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD. I LEAVE NOTHING TO MY SPOUSE, IF LIVING.....

(c) TO BE DISTRIBUTED AS IF I DID NOT HAVE A WILL.....

Article 3. Nominations of Executor and Guardian

3.1 EXECUTOR (Name at least one.)

I nominate the person or institution named in the first box of this paragraph 3.1 to serve as executor of this will. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes.

FIRST EXECUTOR

SECOND EXECUTOR

THIRD EXECUTOR

3.2 GUARDIAN (If you have a child under 18 years of age, you should name at least one guardian of the child's person and at least one guardian of the child's property. The guardian of the child's person and the guardian of the child's property may, but need not, be the same. An individual can serve as guardian of either the person or the property, or as guardian of both. An institution can serve only as guardian of the property.)

If a guardian is needed for any child of mine, then I nominate the individual named in the first box of this paragraph 3.2 to serve as guardian of the person of that child, and I nominate the individual or institution named in the second box of this paragraph 3.2 to serve as guardian of the property of that child. If that person or institution does not serve, then the others shall serve in the order I list them in the other boxes.

FIRST GUARDIAN OF THE PERSON

FIRST GUARDIAN OF THE PROPERTY

SECOND GUARDIAN OF THE PERSON

SECOND GUARDIAN OF THE PROPERTY

THIRD GUARDIAN OF THE PERSON

THIRD GUARDIAN OF THE PROPERTY

3.3 BOND

My signature in this box means that a bond is not required for any individual executor or guardian named in this will. If I do not sign in this box, then a bond is required for each of those persons as set forth in the Probate Code.

I sign my name to this California Statutory Will on _____ at _____
Date

City State

Signature of Testator

STATEMENT OF WITNESSES

(You must use two adult witnesses and three would be preferable.)

Each of us declares under penalty of perjury under the laws of California that the testator signed this California Statutory Will in our presence, all of us being present at the same time, and we now, at the testator's request, in the testator's presence, and in the presence of each other, sign below as witnesses, declaring that the testator appears to be of sound mind and under no duress, fraud, or undue influence.

Signature _____ Residence Address _____

Print Name Here: _____

Signature _____ Residence Address _____

Print Name Here: _____

Signature _____ Residence Address _____

Print Name Here: _____

Definitions, Rules of Construction and Text of the California Statutory Will

Definitions and Rules of Construction

The following definitions and rules of construction shall apply to this California Statutory Will unless, in a particular case, the context clearly requires otherwise:

(a) "Testator" means any person choosing to adopt a California statutory will.

(b) "Spouse" means the testator's husband or wife at the time of the testator signs a California statutory will.

(c) "Executor" means both the person so designated in a California statutory will and any other person acting at any time as the executor or administrator under a California statutory will.

(d) "Trustee" means both the person so designated in a California statutory will and any other person acting at any time as the trustee under a California statutory will.

(e) "Descendants" mean children, grandchildren, and their lineal descendants of all degrees.

(f) A class designation of "descendants" or "children" includes (1) persons legally adopted into the class during minority and (2) persons naturally born into the class (in or out of wedlock). The reference to "descendants" in the plural includes a single descendant where the context so requires.

(g) Masculine pronouns include the feminine, and plural and singular words include each other, where appropriate.

(h) If a California statutory will states that a person shall perform an act, the person is required to perform that act. If a California statutory will states that a person may do an act, the person's decision to do or not to do the act shall be made in the exercise of the person's fiduciary powers.

(i) Whenever a distribution under a California statutory will is to be made to a person's descendants, the property is to be divided into as many equal shares as there are then living descendants of the nearest degree of living descendants and deceased descendants of that same degree who leave descendants then living; and each living descendant of the nearest degree shall receive one share and the share of each deceased descendant of that same degree shall be divided among his or her descendants in the same manner.

(j) "Person" includes individuals and institutions.

Property Disposition Clauses

1. The following is the full text of paragraph 2.1 of this California Statutory Will Form:

If my spouse survives me, I give my spouse all my books, jewelry, clothing, personal automobiles, household furnishings and effects, and other tangible articles of a household or personal use. If my spouse does not survive me, the executor shall distribute those items among my children who survive me, and shall distribute those items in as nearly equal shares as feasible in the executor's discretion. If none of my children survive me, the items described in this paragraph shall become part of the residuary estate.

2. The following are the full texts of the Property Disposition Clauses referred to in paragraph 2.3 of this California Statutory Will Form:

(a) TO MY SPOUSE IF LIVING; IF NOT LIVING, THEN TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD.

If my spouse survives me, then I give all my residuary estate to my spouse. If my spouse does not survive me, then I give

all my residuary estate to my descendants who survive me.

(b) TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD. I LEAVE NOTHING TO MY SPOUSE, IF LIVING.

I give all my residuary estate to my descendants who survive me. I leave nothing to my spouse, even if my spouse survives me.

(c) TO BE DISTRIBUTED AS IF I DID NOT HAVE A WILL.

The executor shall distribute my residuary estate to my heirs at law, their identities and respective shares to be determined according to the laws of the State of California in effect on the date of my death and relating to the succession of separate property not acquired from a parent, grandparent, or predeceased spouse.

Mandatory Clauses

The Mandatory Clauses of this California Statutory Will are as follows:

(a) **INTESTATE DISPOSITION.** If the testator has not made an effective disposition of the residuary estate, the executor shall distribute it to the testator's heirs at law, their identities and respective shares to be determined according to the laws of the State of California in effect on the date of the testator's death and relating to the succession of separate property not acquired from a parent, grandparent, or predeceased spouse.

(b) **POWERS OF EXECUTOR.**

(1) In addition to any powers now or hereafter conferred upon executors by law, including all powers granted under the Independent Administration of Estates Act, the executor shall have the power to: (A) sell estate assets at public or private sale, for cash or on credit terms; (B) lease estate assets without restriction as to duration, and (C) invest any surplus moneys of the estate in real or personal property, as the executor deems advisable.

(2) The executor may distribute estate assets otherwise distributable to a minor beneficiary to (A) the guardian of the minor's person or estate, (B) any adult person with whom the minor resides and who has the care, custody or control of the minor, or (C) a custodian, serving on behalf of the minor under the Uniform Gifts to Minors Act of any state.

The executor is free of liability and is discharged from any further accountability for distributing assets in compliance with the provisions of this paragraph.

(3) On any distribution of assets from the estate, the executor shall have the discretion to partition, allot, and distribute the assets (1) in kind, including undivided interests in an asset or in any part of it, or (2) partly in cash and partly in kind, or (3) entirely in cash. If a distribution is being made to more than one beneficiary, the executor shall have the discretion to distribute assets among them on a pro rata or non-pro rata basis, with the assets valued as of the date of distribution.

(c) **POWERS OF GUARDIAN.** A guardian of the person nominated in the California statutory will shall have the same authority with respect to the person of the ward as a parent having legal custody of a child would have. A guardian of the estate nominated in a California statutory will shall have all of the powers conferred by law. All powers granted to guardians in this paragraph may be exercised without court authorization.

CALIFORNIA STATUTORY WILL WITH TRUST

NOTICE TO THE PERSON WHO SIGNS THIS WILL:

- 1. THIS FORM CONTAINS A TRUST FOR YOUR DESCENDANTS. IF YOU DO NOT WANT TO CREATE A TRUST, DO NOT USE THIS FORM.**
- 2. IT MAY BE IN YOUR BEST INTEREST TO CONSULT WITH A CALIFORNIA LAWYER BECAUSE THIS STATUTORY WILL HAS SERIOUS LEGAL EFFECTS ON YOUR FAMILY AND PROPERTY.**
- 3. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR DEATH TO ANY PERSON BY OPERATION OF LAW OR BY ANY CONTRACT. FOR EXAMPLE, THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS OR YOUR SPOUSE'S SHARE OF COMMUNITY PROPERTY, AND IT WILL NOT NORMALLY APPLY TO PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENEFITS.**
- 4. THIS WILL IS NOT DESIGNED TO REDUCE DEATH TAXES OR ANY OTHER TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A COMPETENT TAX ADVISOR.**
- 5. YOU CANNOT CHANGE, DELETE, OR ADD WORDS TO THE FACE OF THIS CALIFORNIA STATUTORY WILL. YOU MAY REVOKE THIS CALIFORNIA STATUTORY WILL AND YOU MAY AMEND IT BY CODICIL.**
- 6. IF THERE IS ANYTHING IN THIS WILL THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.**
- 7. THE FULL TEXT OF THIS CALIFORNIA STATUTORY WILL, THE DEFINITIONS AND RULES OF CONSTRUCTION, THE PROPERTY DISPOSITION CLAUSES, AND THE MANDATORY CLAUSES FOLLOW THE END OF THIS WILL AND ARE CONTAINED IN THE PROBATE CODE OF CALIFORNIA.**
- 8. THE WITNESSES TO THIS WILL SHOULD NOT BE PEOPLE WHO MAY RECEIVE PROPERTY UNDER THIS WILL. YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS WILL. ALL OF THE WITNESSES MUST WATCH YOU SIGN THIS WILL.**
- 9. YOU SHOULD KEEP THIS WILL IN YOUR SAFE DEPOSIT BOX OR OTHER SAFE PLACE.**
- 10. THIS WILL TREATS MOST ADOPTED CHILDREN AS IF THEY ARE NATURAL CHILDREN.**
- 11. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.**

INSTRUCTIONS contained in California Probate Code Sections 56.1, 56.2, 56.4, and 56.6:

1. Any person of sound mind and over the age of 18 may execute a California Statutory Will under the provisions of this chapter.
2. The only method of executing a California Statutory Will is for the following to occur:
 - (a) The testator shall do the following:
 - (1) Complete the appropriate blanks.
 - (2) Sign the will.
 - (b) The witnesses shall do the following:
 - (1) Observe the testator's signing.
 - (2) Sign their names in the presence of the testator.

The execution of the attestation clause provided in the California Statutory Will by two or more witnesses shall satisfy Section 329.
3. If more than one property disposition clause appearing in paragraph 2.3 of a California Statutory Will Form is selected, or if none is selected, the property of a testator who signs a California Statutory Will shall be distributed to the testator's heirs as if the testator did not make a will.
4. (a) A California Statutory Will may be revoked and may be amended by codicil in the same manner as other wills.
(b) Any additions to or deletions from the California Statutory Will on the face of the California Statutory Will Form, other than in accordance with the instructions, shall be ineffective and shall be disregarded.

CALIFORNIA STATUTORY WILL WITH TRUST OF

(Insert Your Name)

Article I. Declaration

This is my will and I revoke any prior wills and codicils.

Article 2. Disposition of My Property

2.1 PERSONAL AND HOUSEHOLD ITEMS.

I give all my furniture, furnishings, household items, personal automobiles and personal items to my spouse, if living; otherwise they shall be divided equally among my children who survive me.

2.2 CASH GIFT TO A PERSON OR CHARITY.

I make the following cash gift to the person or charity in the amount stated in words and figures in the box which I have completed and signed. If I fail to sign in the box, no gift is made. If the person mentioned does not survive me, or the charity designated does not accept the gift, then no gift is made. No death tax shall be paid from this gift.

FULL NAME OF PERSON OR CHARITY TO RECEIVE CASH GIFT. (Name only one. Please print.)	AMOUNT OF GIFT: \$ _____
	AMOUNT WRITTEN OUT: _____ Dollars
	_____ Signature of Testator

2.3 ALL OTHER ASSETS. (MY "RESIDUARY ESTATE").

I adopt only one Property Disposition Clause in this paragraph 2.3 by writing my signature in the box next to the title of the Property Disposition Clause I wish to adopt. I sign in only one box. I write the words "not used" in the remaining boxes. If I sign in more than one box or if I fail to sign in any box, the property will be distributed as if I did not make a will.

PROPERTY DISPOSITION CLAUSES (Select one.)

(a) TO MY SPOUSE, IF LIVING; IF NOT LIVING, THEN IN ONE TRUST TO PROVIDE FOR THE SUPPORT AND EDUCATION OF MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD UNTIL I HAVE NO LIVING CHILD UNDER 21 YEARS OF AGE.....

(b) TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD IN ONE TRUST TO PROVIDE FOR THEIR SUPPORT AND EDUCATION UNTIL I HAVE NO LIVING CHILD UNDER 21 YEARS OF AGE. I LEAVE NOTHING TO MY SPOUSE, IF LIVING.....

Article 3. Nominations of Executor, Trustee, and Guardian

3.1 EXECUTOR (Name at least one.)

I nominate the person or institution named in the first box of this paragraph 3.1 to serve as executor of this will. If that person or institution does not serve, then the others shall serve in the order I list them in the other boxes.

FIRST EXECUTOR

SECOND EXECUTOR

THIRD EXECUTOR

3.2 TRUSTEE (Name at least one.)

Because it is possible that after I die my property may be put into a trust, I nominate the person or institution named in the first box of this paragraph 3.2 to serve as trustee of that trust. If that person or institution does not serve, then the others shall serve in the order I list them in the other boxes.

FIRST TRUSTEE.....

SECOND TRUSTEE

[Empty box for Second Trustee]

THIRD TRUSTEE

[Empty box for Third Trustee]

3.3 GUARDIAN (If you have a child under 18 years of age, you should name at least one guardian of the child's person and at least one guardian of the child's property. The guardian of the child's person and the guardian of the child's property may, but need not, be the same. An individual can serve as guardian of either the person or the property, or as guardian of both. An institution can serve only as guardian of the property.)

If a guardian is needed for any child of mine, then I nominate the individual named in the first box of this paragraph 3.3 to serve as guardian of the person of that child, and I nominate the individual or institution named in the second box of this paragraph 3.3 to serve as guardian of the property of that child. If that person or institution does not serve, then the others shall serve in the order I list them in the other boxes.

FIRST GUARDIAN OF THE PERSON

[Empty box for First Guardian of the Person]

FIRST GUARDIAN OF THE PROPERTY

[Empty box for First Guardian of the Property]

SECOND GUARDIAN OF THE PERSON

[Empty box for Second Guardian of the Person]

SECOND GUARDIAN OF THE PROPERTY

[Empty box for Second Guardian of the Property]

THIRD GUARDIAN OF THE PERSON

[Empty box for Third Guardian of the Person]

THIRD GUARDIAN OF THE PROPERTY

[Empty box for Third Guardian of the Property]

3.4 BOND

My signature in this box means that a bond is not required for any individual (a) executor, (b) trustee, or (c) guardian named in this will. If I do not sign in this box, then a bond is required for each of those persons as set forth in the Probate Code.....

[Empty box for signature]

I sign my name to this California Statutory Will With Trust on _____ at _____ Date

_____ City _____ State

Signature of Testator

STATEMENT OF WITNESSES

(You must use two adult witnesses and three would be preferable.)

Each of us declares under penalty of perjury under the laws of California that the testator signed this California Statutory Will With Trust in our presence, all of us being present at the same time, and we now, at the testator's request, in the testator's presence, and in the presence of each other, sign below as witnesses, declaring that the testator appears to be of sound mind and under no duress, fraud, or undue influence.

Signature _____ Residence Address _____

Print Name Here: _____

Signature _____ Residence Address _____

Print Name Here: _____

Signature _____ Residence Address _____

Print Name Here: _____

Definitions, Rules of Construction and Text of the California Statutory Will

Definitions and Rules of Construction

The following definitions and rules of construction shall apply to this California Statutory Will unless, in a particular case, the context clearly requires otherwise:

(a) "Testator" means any person choosing to adopt a California statutory will.

(b) "Spouse" means the testator's husband or wife at the time of the testator signs a California statutory will.

(c) "Executor" means both the person so designated in a California statutory will and any other person acting at any time as the executor or administrator under a California statutory will.

(d) "Trustee" means both the person so designated in a California statutory will and any other person acting at any time as the trustee under a California statutory will.

(e) "Descendants" mean children, grandchildren, and their lineal descendants of all degrees.

(f) A class designation of "descendants" or "children" includes (1) persons legally adopted into the class during minority and (2) persons naturally born into the class (in or out of wedlock). The reference to "descendants" in the plural includes a single descendant where the context so requires.

(g) Masculine pronouns include the feminine, and plural and singular words include each other, where appropriate.

(h) If a California statutory will states that a person shall perform an act, the person is required to perform that act. If a California statutory will states that a person may do an act, the person's decision to do or not to do the act shall be made in the exercise of the person's fiduciary powers.

(i) Whenever a distribution under a California statutory will is to be made to a person's descendants, the property is to be divided into as many equal shares as there are then living descendants of the nearest degree of living descendants and deceased descendants of that same degree who leave descendants then living; and each living descendant of the nearest degree shall receive one share and the share of each deceased descendant of that same degree shall be divided among his or her descendants in the same manner.

(j) "Person" includes individuals and institutions.

Property Disposition Clauses

1. The following is the full text of paragraph 2.1 of this California Statutory Will Form:

If my spouse survives me, I give my spouse all my books, jewelry, clothing, personal automobiles, household furnishings and effects, and other tangible articles of a household or personal use. If my spouse does not survive me, the executor shall distribute those items among my children who survive me, and shall distribute those items in as nearly equal shares as feasible in the executor's discretion. If none of my children survive me, the items described in this paragraph shall become part of the residuary estate.

2. The following are the full texts of the Property Disposition Clauses referred to in paragraph 2.3 of this California Statutory Will Form:

**(a) TO MY SPOUSE IF LIVING; IF NOT LIVING,
THEN TO MY CHILDREN AND THE DESCENDANTS
OF ANY DECEASED CHILD.**

If my spouse survives me, then I give all my residuary estate to my spouse. If my spouse does not survive me, then I give

all my residuary estate to my descendants who survive me.

**(b) TO MY CHILDREN AND THE DESCENDANTS
OF ANY DECEASED CHILD. I LEAVE NOTHING TO
MY SPOUSE, IF LIVING.**

I give all my residuary estate to my descendants who survive me. I leave nothing to my spouse, even if my spouse survives me.

**(c) TO BE DISTRIBUTED AS IF I DID NOT HAVE A
WILL.**

The executor shall distribute my residuary estate to my heirs at law, their identities and respective shares to be determined according to the laws of the State of California in effect on the date of my death and relating to the succession of separate property not acquired from a parent, grandparent, or predeceased spouse.

Mandatory Clauses

The Mandatory Clauses of this California Statutory Will are as follows:

(a) **INTESTATE DISPOSITION.** If the testator has not made an effective disposition of the residuary estate, the executor shall distribute it to the testator's heirs at law, their identities and respective shares to be determined according to the laws of the State of California in effect on the date of the testator's death and relating to the succession of separate property not acquired from a parent, grandparent, or predeceased spouse.

(b) **POWERS OF EXECUTOR.**

(1) In addition to any powers now or hereafter conferred upon executors by law, including all powers granted under the Independent Administration of Estates Act, the executor shall have the power to: (A) sell estate assets at public or private sale, for cash or on credit terms; (B) lease estate assets without restriction as to duration, and (C) invest any surplus moneys of the estate in real or personal property, as the executor deems advisable.

(2) The executor may distribute estate assets otherwise distributable to a minor beneficiary to (A) the guardian of the minor's person or estate, (B) any adult person with whom the minor resides and who has the care, custody or control of the minor, or (C) a custodian, serving on behalf of the minor under the Uniform Gifts to Minors Act of any state.

The executor is free of liability and is discharged from any further accountability for distributing assets in compliance with the provisions of this paragraph.

(3) On any distribution of assets from the estate, the executor shall have the discretion to partition, allot, and distribute the assets (1) in kind, including undivided interests in an asset or in any part of it, or (2) partly in cash and partly in kind, or (3) entirely in cash. If a distribution is being made to more than one beneficiary, the executor shall have the discretion to distribute assets among them on a pro rata or non-pro rata basis, with the assets valued as of the date of distribution.

(c) **POWERS OF GUARDIAN.** A guardian of the person nominated in the California statutory will shall have the same authority with respect to the person of the ward as a parent having legal custody of a child would have. A guardian of the estate nominated in a California statutory will shall have all of the powers conferred by law. All powers granted to guardians in this paragraph may be exercised without court authorization.

Chapter 21 Texas Will Supplement

Texas law on wills and probate has a few innovative features. We'll discuss briefly their impact on your will.

Community Property

Texas is a community property state. If a person dies intestate, the surviving spouse takes the decedent's one-half share of community property if there are no children. If there are children, they take all of the decedent's one-half share of community property. With regards to any separate property of the decedent, the surviving spouse with children will get only $\frac{1}{3}$ of the real property as "life estate" with "remainder" to go to the children. For these reasons, it is of paramount importance for a married person with children in Texas to leave a valid will.

Joint Tenancy

Texas has abolished joint tenancy with a right of survivorship as it is normally understood in most other states. Under Texas law, when two or more persons hold in joint tenancy any real or personal property and one of the joint owners dies before severing the joint tenancy, his or her interest does not pass on to the surviving joint owners, but is disposed of to the heirs in the same manner as other properties owned by the decedent.

The joint owners, however, can enter into a written agreement that will allow a decedent joint owner's interest to survive to the remaining joint owners. If a married couple holds a joint account at a bank or savings and loan, they can have an agreement with the financial institution under which, upon death of one spouse, the surviving spouse will inherit the account.

Self-Proving Wills

Texas has a provision for self-proving wills which would make the testimony of the witnesses at probate unnecessary. The Will Forms included in this Manual allow you to make your will self-proving. A holographic will can also be made self-proving in a similar fashion.

Gifts to Witnesses

Under Texas law, a witness whose testimony is necessary to establish the validity of a will cannot be a beneficiary under the will. Any gift made to such a witness will be considered void. However, there is an exception. If the witness would have been entitled to a share of the estate had there been no will, his gift under the will would be limited to this share.

Independent Administration

Texas is one of the very few states (Missouri and Washington are others) that allows "independent administration" of the estate during probate. Under this statute, the independent executor performs almost all of his tasks without court supervision. The court's functions are limited to receiving the will for probate and to receiving an inventory of the estate. This could result in considerable saving for the estate in probate costs.

If you wish to take advantage of this statute, your will should contain the following clause:

I hereby appoint _____ to be Independent Executor of my will and estate to serve without bond or other security. If for any reason he is unable or unwilling to serve or continue to serve, then I hereby nominate, constitute and appoint as substitute or successor Independent Executor _____ to serve without bond or other security. To the extent permitted by law I direct that no action shall be had in any court exercising probate jurisdiction in relation to the settlement of my estate other than the probating and recording of my will and the return of an inventory, appraisalment and list of claims of my estate as may be provided by law.

Replace Clause 13 in Chapter 13 (How to Write a "Customized" Will) with the above clause in your formal will appointing executor.

Executor's Powers

Under the Texas Trust Act, a fiduciary is granted wide powers. You can incorporate these powers specifically in your will and confer upon the executor additional powers that may be useful in estate administration. Substitute the following clause for Clause 14 in Chapter 13 for powers of executor in your formal will.

In addition to, and not in limitation of all authority, power and discretion granted under Texas Trust Act, I authorize my executor:

(a) to retain any assets which shall come into their possession as a part of my estate;

(b) to sell or exchange any property contained in my estate, whether real or personal, and in case of sale, to sell at public auction or privately, for cash or credit, and upon such terms and conditions as they may deem best;

(c) to invest and reinvest in such notes, bonds, debentures, shares of stock (common or preferred) or other securities or property as they, in their sole discretion shall deem best without being confined to such investments as are usual for the investment of trust funds;

(d) to register and take title to any securities or other property held in my estate in the name of any nominee selected by them, without disclosing this trust;

(e) to make division or distribution of my estate in kind, money or partly in both, without regard to the income tax basis of any such property, and their valuation of property for such purposes shall be final and binding on all parties interested therein;

(f) to compromise and adjust any claims against or in favor of my estate upon such terms and conditions as they deem proper;

(g) to borrow money and renew obligations for my estate without any personal liability on my executors in doing so, and for such purposes to pledge, mortgage, and encumber all or any portion of my estate.

Chapter 22

New York Will Supplement

General

Any person eighteen years of age or over and of sound mind can make a will. New York requires at least two witnesses to a will and, generally, a witness should not inherit under a will. A divorce revokes a will as it affects the former spouse and also nullifies his or her appointment as executor under the will. A will may be revoked by another will, or a writing by the testator indicating his intention to revoke the will (this writing must be executed with the formalities of a will) or by physically destroying the will. New York has adopted the Uniform Anatomical Gift Act.

Formalities of Execution

The procedure outlined elsewhere in this Manual for executing your will sufficiently meets the requirements of the law in New York. The testator must sign the written will in the presence of at least two witnesses or acknowledge his signature to each witness separately and declare that the instrument signed is his will. The two witnesses do not have to sign at the same time, but can sign within a period of thirty days.

Holographic Will

New York recognizes a holographic will only when made by a member of the armed forces while in actual military service during an armed conflict.

Will Contest Clause

A clause in a will that stipulates that anyone contesting the will forfeits his or her share is valid as long as one is contesting only that the will was a forgery or that it was revoked by a later will. An infant or an incompetent person can oppose the probate of a will without losing any benefit under the will. Also, contesting jurisdiction of the court or asking a court to interpret a will will not result in the forfeiture of any benefit under the will.

Chapter 23

Florida Will Supplement

General

In Florida, any person eighteen or more years of age who is of sound mind may make a will. Florida does not recognize holographic will. The law places restrictions on gifts made to charities by the testator if the will was made within six months of the death. Unless a person had established a pattern of making gifts to charities in previous wills, all devises made within the last six months may be invalidated if the spouse or lineal descendants of the testator object. When a marriage ends in divorce, the will as it affects the divorced spouse is considered void.

Anatomical Gifts

You may donate all or part of your body either through a will or other document. The gift becomes effective upon the death of the donor without waiting for probate. The document must be signed by the donor in the presence of two witnesses who must also sign the document in his presence. A sample Uniform Donor Card is shown below:

UNIFORM DONOR CARD

The undersigned hereby makes this anatomical gift, if medically acceptable, to take effect on death. The words and marks below indicate my desires:

I give:

(a) _____ any needed organs or parts;

(b) _____ only the following organs or parts (Specify the organ(s) for the purpose of transplantation, therapy, medical research, or education);

(c) _____ my body for anatomical study, if needed.

Limitations or special wishes, if any: _____

If applicable, list specific donee: _____

Signed by the donor and the following witnesses in the presence of each other:

Date: _____

Signature of Donor

Date of Birth

Address

_____ of _____
Witness *Address*

_____ of _____
Witness *Address*

Formalities of Execution

The testator must sign the will at the end, and at least two attesting witnesses must sign the will in the presence of the testator and in the presence of each other. The will can be made self-proving at the time of execution or at a later date by acknowledgment by the testator and the witnesses in the presence of a notary public. In Florida, a will is not considered invalid merely because it was signed by an interested witness.

Right of Election

If a surviving spouse exercises the right of election to take against the will of deceased spouse, the elective share consists of 30 percent of the fair market value of all assets after all valid claims against the estate are paid and all mortgages and liens are deducted.

Chapter 24 Living Will

Since 1976 many states have enacted “living will” laws. These laws — sometimes called “right-to-die” or “death-with-dignity” statutes — generally establish a person’s right to sign a legally effective declaration that says that, should he become terminally ill, he wants no extraordinary measures used to prolong life. At this time, 35 states and the District of Columbia have recognized a terminally ill patient’s right to say ‘no’ to further treatment. Living will laws free doctors and other health care providers from liability when they act in accordance with the patient’s instructions.

At present, the laws vary in detail from state to state. A number of states require a diagnosis of “terminal illness” not only from the attending physician but also from a second doctor. Almost all insist on two witnesses to the signing of the living will, but several states specify that the process take place before a notary public. Some allow the person to designate a close relative or other proxy to make crucial medical care decisions should he be incompetent to make them himself; others rule out decisions by anyone but the patient. Most laws on the book specify that withdrawal of life-sustaining procedures pursuant to a living will does not sanction withdrawal of food and water.

It’s recommended that you review your living will declaration periodically and re-execute it to keep it current. If a terminal illness has been diagnosed recently, a new declaration should be executed. A commonly-used living will form is included in this Manual; it should be signed in the presence of three witnesses. Such a will may be legally binding and enforceable even in states that do not have living will laws on the book, but this is not as clear and as certain as in those states that have specific laws on the subject.

When States Passed “Living Will” Laws

1976	California
1977	Arkansas, Idaho, Nevada, New Mexico, North Carolina, Oregon, Texas
1979	Kansas, Washington
1981	Alabama
1982	Delaware, District of Columbia, Vermont
1983	Illinois, Virginia
1984	Florida, Georgia, Louisiana, Mississippi, West Virginia, Wisconsin, Wyoming
1985	Arizona, Colorado, Connecticut, Indiana, Iowa, Maine, Maryland, Missouri, Montana, New Hampshire, Oklahoma, Tennessee, Utah

Living Will

To my family, my physician, my lawyer, and my clergyman:

To any medical facility in whose care I happen to be:

To any individual who may become responsible for my health, welfare, or affairs:

I, _____ wish to make this statement as an expression of my desires and directions while I am still of sound and competent mind. If a time comes when I can no longer take part in decisions regarding my own well-being, let this statement serve as a guide to all those who care for me.

Should a situation arise when there is no reasonable expectation of my recovering from extreme physical or mental disability, I request that I be allowed to die and not be kept alive by artificial means or "heroic measures" undertaken by medical personnel. I do, however, ask that medication be mercifully administered to me to alleviate pain and suffering even though this may hasten the moment of death.

If I have executed a valid form of bequeathal of any of my organs for transplant or research purposes, I do ask and authorize that I be kept alive by artificial means for a time sufficient to enable the medical personnel to accomplish the withdrawal of the organs.

I am making this request after careful consideration and is in accordance with my beliefs and convictions. I hope that those who care for me will feel morally bound to carry out my wishes as expressed here.

Date: _____ Signature: _____

Witness

Witness

Witness

Chapter 25

Glossary of Terms

Administration: The process of managing a decedent's estate. Often synonymous with probate during which decedent's affairs are handled under court supervision.

Administrator: An individual or institution (such as a bank or a trust company) appointed by court to administer the estate of an individual who has left no will naming an executor, or whose designated executor is unable or unwilling to serve. Feminine: Administratrix.

Antenuptial: Something, usually an agreement, that is made before a marriage between the two parties.

Beneficiary: The person who receives life insurance proceeds, assets of a trust, or gifts in a will.

Bequeath: To leave personal property to someone by a will.

Bequest: Personal property that is left to someone by will. In traditional terms, a gift of cash is called legacy, a gift of personal property is called bequest, and a gift of real property is called devise. In present day English, these terms are often used interchangeably.

Bond: A guarantee by an insurance or a bonding company to make up for any loss to the estate, conservatorship, guardianship, or trust caused by negligent or improper conduct of the administrator, executor, conservator, guardian or trustee.

Codicil: A document amending or supplementing a will. A codicil must be executed in the same manner as a will.

Common Disaster: When two or more persons are killed at the same time, such as in an airplane crash. A will should provide for such a contingency.

Community Property: All property acquired in one of the eight community property states by married persons that is not the separate property of either. The eight states are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington.

Curtesy: A share of marital property automatically given to a husband upon the death of his wife. Applies only in a few common law states.

Decedent: A person who has died.

Devise: A gift of real property.

Domicile: The legal residence of a person. Your will will be probated and taxed according to the laws of your state of domicile.

Dower: A share of marital property automatically given to a wife upon the death of her husband. Applies only in a few common law states.

Escheat: When a person dies intestate (i.e. without a will) and there are no heirs to his estate, it "escheats" to the state.

Executor: The person named in a will to administer and dispose of the assets of the decedent under court supervision. Feminine: Executrix.

Fiduciary: A person or institution in a position of trust such as executor, administrator or trustee.

Formal Will: A formal will must be witnessed by at least two or three witnesses and "acknowledged" by the testator to the witnesses to be his or her will. Many states permit only formal wills.

Heir: Traditionally, anyone who inherits property from those who die without a will. In modern usage, it also refers to anyone who takes property under a will.

Holographic Will: This type of will, as distinguished from a formal will, must be entirely written, dated, and signed by the person making the will in his or her handwriting. Only a few states permit holographic wills, often under limited circumstances. Strict rules govern their validity.

Intestate: A person who has died without leaving a valid will.

Issue: All persons who are direct, lineal descendants from an ancestor, such as children, grandchildren, great-grandchildren, etc.

Joint and Mutual Will: A single will signed by both husband and wife disposing of their property at each death. Generally, not recommended.

Legacy: A gift of cash.

Life Estate: The right to use and enjoy property during the rest of his or her life.

Life Tenant: The person in possession of a life estate.

Noncupative Will: An oral will, allowed in only a few states for a very limited amount of personal property, and only if made immediately before death.

Per Stirpes: The method of distribution under a will or trust meaning "by the roots" or "by representation." For example, if a testator, providing for per stirpes distribution of his estate, is survived by one son and had a deceased daughter survived by three children, the son would receive one-half of the estate and the daughter's children would each receive one-sixth.

Personal Property: Tangible or intangible property that is not real property.

Probate: The legal process under which a decedent's estate is administered under court supervision.

Real Property: Land, buildings.

Remainder: The property interest passing on to someone else upon termination of a life estate.

Remainderman: The person receiving the principal of an estate upon termination of a life estate.

Testamentary Capacity: The legal capacity to make a will.

Testamentary Trust: A trust created in a will that does not come into being until after the testator's death.

Testator: The person who writes a will. Feminine: Testatrix.

Trust: A legal device in which a person or an institution holds and manages property for the benefit of someone else.

Will: A formal document providing for the disposition of property owned at death, and expressing other wishes of the decedent.

Will Contest: A legal challenge to have a will declared invalid for lack of testamentary capacity or lack of due execution.

Appendix A

State-by-State Rules of Intestate Succession

The following schedule shows who would inherit your estate if you died without a will. Use these only as general guidelines; for actual statement of the law, you should consult your state's probate code.

ALABAMA

Spouse and Issue: If all the children are those of the surviving spouse also, the spouse receives the first \$50,000 in value, plus one-half of the balance of the intestate estate. But if any of the children are not those of the surviving spouse, the spouse receives only one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: If there is no surviving issue or parent of the decedent, the surviving spouse receives the entire estate. If any parent survives, the spouse receives \$100,000 plus one-half of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse, Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

ALASKA

Spouse and Issue: If all the children are also those of the surviving spouse, the spouse receives first \$50,000 plus one-half of the balance of the intestate estate. If any of the children are not issue of the surviving spouse, the spouse receives one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: If there are no surviving parents, all goes to the spouse. If parents survive, the spouse receives \$50,000 plus one-half of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse, Issue or Parents: All to the issue of the parents per stirpes and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

ARIZONA

Spouse and Issue: If any of the children are not those of the surviving spouse also, the spouse receives one-half of the decedent's separate property and no interest in one-half of the community property belonging to the decedent; balance to the children or to their issue per stirpes. Otherwise, all the separate property and one-half of the community property belonging to the decedent passes to the surviving spouse.

Spouse and No Issue: If there is no surviving issue, the surviving spouse receives the entire intestate estate.

No Spouse but Issue: All to the children equally or their issue per stirpes.

No Spouse or Issue but Parents: All to the parent or parents of the decedent.

No Spouse, Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

ARKANSAS

Spouse and Issue: Real property — one-third and life estate to the spouse; balance to the children equally or to their issue per stirpes. Personal property — one-third to the spouse; balance to the children equally or to their issue per stirpes.

Spouse and No Issue: All to the spouse if married three years or more. If married less than three years, one-half to the spouse and balance to the surviving parent or parents equally. If no parents, brothers and sisters equally or to their issue per stirpes; and, if none, to the ancestors and their issue; if none, all to the spouse.

No Spouse But Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse, Issue, or Parents: All to the issue of parents per stirpes, and, if none, to the grandparents and their issue.

CALIFORNIA

Spouse and Issue: The intestate share of the surviving spouse is the one-half of the community property that belonged to the decedent. As to the separate property, if only one child or the issue of a deceased child survives, the spouse receives one-half, and one-half to the child or child's issue. If the decedent left more than one child or the issue of a deceased child, the spouse receives one-third and two-thirds to the children or their issue per stirpes.

Spouse and No Issue: All community property goes to the surviving spouse. As to the separate property, the spouse will receive one-half of the estate if the decedent left a parent or parents in which case they will share equally the other half. If no parent surviving, then to the issue of the parents per stirpes.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the decedent's parent or parents equally.

No Spouse, Parents or Issue: All to the issue of parents per stirpes; if none, to the grandparents or the issue of grandparents per stirpes; and, if none, to the next of kin.

COLORADO

Spouse and Issue: If all the children are those of the surviving spouse also, the spouse receives the first \$25,000 plus one-half of the intestate estate. But if any of the children are not those of the surviving spouse, the spouse receives one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: The spouse receives the entire intestate estate.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parent or parents equally.

No Spouse, Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

CONNECTICUT

Spouse and Issue: If all the children are those of the surviving spouse also, the spouse receives the first \$50,000 in value, plus one-half of the balance of the intestate estate. But if any of the children are not those of the surviving spouse, the spouse receives only one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: If there is no surviving issue or parent of the decedent, the surviving spouse receives the entire estate. If any parent survives, the spouse receives \$50,000 plus three-quarters of the balance of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parent or parents equally.

No Spouse or Issue or Parents: All to the issue of parents per stirpes, and, if none, to the next of kin.

DELAWARE

Spouse and Issue: If all the children are also those of the surviving spouse, the spouse receives the first \$50,000 of the intestate personal estate, plus one-half of the balance of the intestate personal estate, plus a life estate in their intestate real estate. Balance to the children or to their issue per stirpes. If any of the surviving issue are not issue of the surviving spouse, the spouse receives one-half of the intestate personal estate; balance to the children or to their issue per stirpes.

Spouse and No Issue: If there is no surviving issue or parent of the decedent, the surviving spouse receives the entire estate. If any parent survives, the spouse receives \$50,000 plus three-quarters of the balance of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parent or parents equally.

No Spouse or Issue or Parents: All to the issue of parents per stirpes, and, if none, to the next of kin.

DISTRICT OF COLUMBIA

Spouse and Issue: If the decedent leaves a child or the issue of a child, the surviving spouse receives one-third of the estate; balance to the children or to their issue per stirpes.

Spouse and No Issue: If there is no child, parent, grandchild, brother or sister, or the child of a brother or sister of the decedent, the surviving spouse receives the entire estate. When the decedent leaves a spouse and a father or mother, or brother or sister, or child of a brother or sister, the surviving spouse receives one-half of the estate; balance to the parent or parents equally; if no parent, then to the brother or sister or their issue per stirpes; if none, then to the grandparents or their survivor.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters or to their issue per stirpes, and, if none, to collateral relations, and, if none, to the grandparents.

FLORIDA

Spouse and Issue: If all the children are those of the surviving spouse also, the spouse receives the first \$20,000 in value, plus one-half of the balance of the intestate estate. But if any of the children are not those of the surviving spouse, the spouse receives only one-half of the estate. Balance to the children or to their issue per stirpes.

Spouse and No Issue: If there is no surviving issue, the surviving spouse receives the entire intestate estate.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

GEORGIA

Spouse and Issue: Children or their issue share equally with the surviving spouse; the spouse to receive at least one-fifth.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parents, brothers, and sisters equally or to their issue per stirpes.

No Spouse or Issue or Parents: All to the brothers and sisters or to their issue per stirpes, and, if none, to paternal and maternal next of kin.

HAWAII

Spouse and Issue: One-half of the decedent's estate goes to the surviving spouse, and the other half to the children.

Spouse and No Issue: One-half to the surviving spouse, and one-half to the parent or parents equally. If no parents, then the surviving spouse receives the entire intestate estate.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parent or parents equally.

No Spouse or Issue or Parents: All to the issue of parents per stirpes; if none, to the grandparents or the issue of grandparents per stirpes; and, if none, to the next of kin.

IDAHO

Spouse and Issue: One-half of community property belonging to the decedent passes to the surviving spouse. As to separate property, if all the children are those of the surviving spouse also, the spouse receives the first \$50,000 in value, plus one-half of the balance of the intestate estate. But if any of the children are not those of the surviving spouse, the spouse receives only one-half of the estate. Balance to the children or to their issue per stirpes.

Spouse and No Issue: If there is no surviving issue or parent of the decedent, the surviving spouse receives the entire estate. If any parent survives, the spouse receives \$50,000 plus one-half of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

ILLINOIS

Spouse and Issue: One-half of the entire estate goes to the surviving spouse and one-half to the descendants per stirpes.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the descendants per stirpes.

No Spouse or Issue but Parents: All to the parents, brothers and sisters, or the issue of the deceased brothers and sisters, per stirpes. If there's only one surviving parent, he or she takes a double share.

No Spouse or Issue or Parents: One-half of the intestate estate to the maternal grandparent or grandparents equally, or if none, to their descendants per stirpes; the other half to the paternal side similarly. If there is no one on one side, the other side receives that share. If no grandparents, then to the great-grandparents similarly, then to the next of kin without representation.

INDIANA

Spouse and Issue: The surviving spouse takes one-third of the intestate estate if there are two or more children, and one-half of the estate if there is one surviving child. However, if surviving spouse is childless and the decedent left any issues of a previous marriage, the spouse takes only a life estate in one-third of the real property of the deceased spouse, and the fee interest passes to the children or their issue.

Spouse and No Issue: If there are no parents, the spouse takes the entire estate. If parents surviving, the spouse takes three-fourths of the estate; balance to the parents.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: One-half to the parents if both living, or one-fourth to one parent. Balance to brothers and sisters or to their issue per stirpes.

No Spouse or Issue or Parents: All to the brothers and sisters of the decedent or to their issue per stirpes and, if none, to grandparents and, if none, to uncles and aunts per stirpes.

IOWA

Spouse and Issue: One-third of the real property to the surviving spouse and two-thirds to the children or to their issue per stirpes. All personal property exempt from execution and one-third of the remaining personal property goes to the spouse; balance to the children or to their issue per stirpes. Spouse's minimum share: \$50,000.

Spouse and No Issue: One-half of the real property to the surviving spouse and one-half to the parent or parents equally, and, if none, to their issue per stirpes, and, if none, all to the spouse. All personal property exempt from execution and one-half of the remaining personal property goes to the spouse; balance to the parent or parents equally, and, if none, to their heirs per stirpes, or their issue per stirpes, and, if none, all to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parent or parents equally.

No Spouse or Issue or Parents: All to brothers and sisters of the decedent or to their issue per stirpes, and, if none, to ancestors and their heirs, and, if none, to the spouse of the intestate, and, if none, to the heirs of the spouse.

KANSAS

Spouse and Issue: One-half of the intestate estate to the surviving spouse, and one-half to the children equally or to their issue per stirpes.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the heirs of the parents per stirpes.

KENTUCKY

Spouse and Issue: Real property — Spouse to get life estate in one-third of the estate in which the decedent had a fee simple interest during marriage and one-half of the surplus real estate; balance to the children equally or to their issue per stirpes. Personal property — one-half to the spouse and balance to the children equally or to their issue per stirpes.

Spouse and No Issue: One-half to the spouse and one-half to the parent or parents equally, but, if no parent, their one-half go to their issue per stirpes, and, if none, to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: To the brothers and sisters of the intestate or to their issue per stirpes, and, if none, one-half to the maternal next of kin and one-half to the paternal next of kin.

LOUISIANA

Spouse and Issue: All community property of the decedent goes to the descendants per stirpes. All separate property passes to the children equally or to their issue per stirpes.

Spouse and No Issue: All community property goes to the spouse. Separate property of the intestate goes to the brothers and sisters or to their issue per stirpes. If none, all to the parents. If none of the above, then to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the brothers and sisters or to their issue per stirpes, and, if none, all to the parents.

No Spouse, Issue, or Parents: All to the brothers and sisters or to their issue per stirpes, and, if none, to the more remote next of kin.

MAINE

Spouse and Issue: If all the children are also those of the surviving spouse, the spouse receives first \$50,000 plus one-half of the balance of the intestate estate. If any of the children are not issue of the surviving spouse, the spouse receives one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: \$50,000 plus one-half of the intestate estate to go to the spouse, balance to the parent or parents equally or to their issue per capita, and, if none, one-half to the paternal grandparents or to their issue per capita, and one-half to the maternal grandparents or to their issue per capita.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: One-half to the paternal grandparents or to their issue per capita, and one-half to the maternal grandparents or to their issue per capita.

MARYLAND

Spouse and Issue: One-half to the spouse and one-half to the children equally or to their issue per stirpes.

Spouse and No Issue: One-half to the spouse and one-half to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters equally or to their issue per stirpes, and, if none, to collateral next of kin.

MASSACHUSETTS

Spouse and Issue: One-half of the intestate estate to the surviving spouse, and one-half to the children equally or to their issue per stirpes.

Spouse and No Issue: Spouse to receive \$50,000 plus one-half of the balance of the intestate estate, the other half to the parent or parents equally; if no parent surviving, their share goes to the brothers and sisters equally or to their issue per stirpes, and, if none, to the next of kin. If no next of kin, all to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters of the decedent equally or to their issue per stirpes, and, if none, to the next of kin.

MICHIGAN

Spouse and Issue: If all the children are those of the surviving spouse also, the spouse receives \$60,000 plus one-half of the balance of the intestate estate. If any of the children are not those of the surviving spouse, the spouse receives one-half of the intestate estate.

Spouse and No Issue: Spouse to get \$60,000 plus one-half of the balance of the intestate estate and balance to the parent or parents equally; if no parents, all to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

MINNESOTA

Spouse and Issue: If only one child or the issue of a deceased child survive, the spouse to get one-half and one-half to the child or its issue; if more than one child, then one-third to the spouse and two-thirds to the children equally or to their issue per stirpes.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters of the decedent equally or to their issue per stirpes, and, if none, to the next of kin.

MISSISSIPPI

Spouse and Issue: The intestate estate is divided equally among the spouse and children or their issue.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parents, brothers, sisters equally or to the issue of brothers and sisters per stirpes. If no brothers or sisters or their issue, all to the parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters equally or to their issue per stirpes, and, if none, to the grandparents, uncles, and aunts equally or to their issue per stirpes, and, if none, to the next of kin.

MISSOURI

Spouse and Issue: If all the children are those of the surviving spouse also, the spouse receives the first \$20,000 in value, plus one-half of the balance of the intestate estate. But, if any of the children are not those of the surviving spouse, the spouse receives only one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: Spouse to receive \$20,000 plus one-half of the intestate estate and the other half to the parent or the parents equally, and, if none, all to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parents, brothers, sisters equally or to the issue of brothers and sisters per stirpes. If no brothers or sisters or their issue, all to the parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters equally or to their issue per stirpes, and, if none, to the grandparents, uncles, and aunts equally or to their issue per stirpes, and, if none, to the next of kin.

MONTANA

Spouse and Issue: All to the surviving spouse if all the children are those of the surviving spouse also. If one child is not an issue of the surviving spouse, the spouse to get one-half; if more than one such child, the spouse to get one-third and the balance to the children.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

NEBRASKA

Spouse and Issue: If all the children are those of the surviving spouse also, the spouse receives the first \$50,000 in value, plus one-half of the balance of the intestate estate. But if any of the children are not those of the surviving spouse, the spouse receives only one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: If there are no surviving parents, all goes to the spouse. If parents survive, the spouse receives \$50,000 plus one-half of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: To the brothers and sisters of the intestate or to their issue per stirpes, and, if none, one-half to the maternal next of kin and one-half to the paternal next of kin.

NEVADA

Spouse and Issue: The intestate share of the surviving spouse is the one-half of the community property that belonged to the decedent. As to the separate property, if only one child or the issue of a deceased child survives, the spouse receives one-half, and one-half to the child or child's issue. If the decedent left more than one child or the issue of a deceased child, the spouse receives one-third and two-thirds to the children or their issue per stirpes.

Spouse and No Issue: All community property goes to the surviving spouse. As to the separate property, the spouse will receive one-half of the estate if the decedent left a parent or parents in which case they will share equally the other half. If no parent surviving, then to the issue of the parents per stirpes.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters of the decedent equally or to their issue per stirpes, and, if none, to the next of kin.

NEW HAMPSHIRE

Spouse and Issue: If all the children are those of the surviving spouse also, the spouse receives the first \$50,000 in value, plus one-half of the balance of the intestate estate. But if any of the children are not those of the surviving spouse, the spouse receives only one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: If there are no surviving parents, all goes to the spouse. If parents survive, the spouse receives \$50,000 plus one-half of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: To the brothers and sisters of the intestate or to their issue per stirpes, and, if none, one-half to the maternal next of kin and one-half to the paternal next of kin.

NEW JERSEY

Spouse and Issue: If all the children are those of the surviving spouse also, the spouse receives the first \$50,000 in value, plus one-half of the balance of the intestate estate. But if any of the children are not those of the surviving spouse, the spouse receives only one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: If there are no surviving parents, all goes to the spouse. If parents survive, the spouse receives \$50,000 plus one-half of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

NEW MEXICO

Spouse and Issue: All the community property goes to the spouse. As to the separate property, the spouse receives one-fourth, and the children or their issue per stirpes to get three-fourths.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

NEW YORK

Spouse and Issue: If only one child and no issue of a predeceased child, \$4,000 plus one-half to go to the spouse and the balance to the child or to the issue of the child. If more than one child, or one child and issue of a predeceased child, \$4,000 plus one-third to the spouse and balance to the children or to their issue per stirpes.

Spouse and No Issue: If there are no surviving parents, all goes to the spouse. If parents survive, the spouse receives \$25,000 plus one-half of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters of the decedent or to their issue per stirpes, and, if none, to grandparents equally or to their issue per capita, and, if none, to the next of kin.

NORTH CAROLINA

Spouse and Issue: If only one child and no issue of a predeceased child, \$15,000 plus one-half to go to the spouse and the balance to the child or to the issue of the child. If more than one child or one child and issue of a predeceased child, \$15,000 plus one-third to the spouse and balance to the children or to their issue per stirpes.

Spouse and No Issue: If there are no surviving parents, all goes to the spouse. If parents survive, the spouse receives \$25,000 plus one-half of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

NORTH DAKOTA

Spouse and Issue: If all the children are those of the surviving spouse also, the spouse receives the first \$50,000 in value, plus one-half of the balance of the intestate estate. But if any of the children are not those of the surviving spouse, the spouse receives only one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: If there are no surviving parents, all goes to the spouse. If parents survive, the spouse receives \$50,000 plus one-half of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: To the brothers and sisters of the intestate or to their issue per stirpes, and, if none, one-half to the maternal next of kin and one-half to the paternal next of kin.

OHIO

Spouse and Issue: If there is one child, spouse to receive \$30,000 if he or she is the natural or adoptive parent, otherwise \$10,000, plus one-half of the balance of the intestate estate. Remainder to the child or its issue per stirpes. If there is more than one child, same as above except spouse to get one-third of the intestate estate instead of one-half.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

OKLAHOMA

Spouse and Issue: If only one child or the issue of a deceased child survive, the spouse to get one-half and one-half to the child or its issue; if more than one child, then one-third to the spouse and two-thirds to the children equally or to their issue per stirpes.

Spouse and No Issue: One-half to the spouse and one-half to the parent or parents equally, but, if none, to the brothers and sisters equally or to their children per stirpes, and, if none, all to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters of the decedent equally or to their issue per stirpes, and, if none, to the next of kin.

OREGON

Spouse and Issue: One-half of the intestate estate to the surviving spouse, and one-half to the children equally or to their issue per stirpes.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters of the decedent equally or to their issue per stirpes, and, if none, to the next of kin.

PENNSYLVANIA

Spouse and Issue: If all the children are also those of the surviving spouse, the spouse receives first \$30,000 plus one-half of the balance of the intestate estate. If any of the children are not issue of the surviving spouse, the spouse receives one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: If there are no surviving parents, all goes to the spouse. If parents survive, the spouse receives \$30,000 plus one-half of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

RHODE ISLAND

Spouse and Issue: Real property — spouse to receive one-third life estate, balance to the children equally or to their issue per stirpes. Personal property — one-third to the spouse and balance to the children equally or to their issue per stirpes.

Spouse and No Issue: Real property — life estate to the surviving spouse and up to \$25,000; balance to the parent or parents equally, and, if none, to the brothers and sisters equally, and, if none, one-half to maternal grandparents and one-half to paternal grandparents or to survivor, and, if none, to aunts and uncles equally or to their issue per stirpes, and, if none, to the next of kin, and, if none, to the spouse. Personal property — \$50,000 and one-half to the spouse. Balance in the same order as above.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

SOUTH CAROLINA

Spouse and Issue: If only one child or the issue of a deceased child survive, the spouse to get one-half and one-half to the child or its issue; if more than one child, then one-third to the spouse and two-thirds to the children equally or to their issue per stirpes.

Spouse and No Issue: One-half to the spouse and one-half to the parents, brothers and sisters equally, or to their issue per stirpes, and if no parents, one-half to brothers and sisters per stirpes, and, if no brothers and sisters, to parents equally or to the surviving parent, and, if none, one-half to lineal descendants, and, if none, to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: To the parent or parents equally if no brothers and sisters.

No Spouse or Issue or Parents: All to the brothers and sisters of the decedent or to their issue per stirpes and, if none, to grandparents and, if none, to uncles and aunts per stirpes.

SOUTH DAKOTA

Spouse and Issue: If only one child or the issue of a deceased child survive, the spouse to get one-half and one-half to the child or its issue; if more than one child, then one-third to the spouse and two-thirds to the children equally or to their issue per stirpes.

Spouse and No Issue: Spouse to get \$100,000 plus one-half of the estate, balance to the parent or parents equally, and, if none, to brothers and sisters equally or to their issue per stirpes, and, if none, to the spouse.

No Spouse but Issue: All to the spouse.

No Spouse or Issue but Parents: All to the children equally or to their issue per stirpes.

No Spouse or Issue or Parents: All to the surviving parent or parents equally.

TENNESSEE

Spouse and Issue: Homestead and either one-third or a child's share of the entire intestate estate, whichever is greater. Balance to the children or to their issue per stirpes.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and if none, to the deceased person's next of kin.

TEXAS

Spouse and Issue: One-half of the community estate goes to the spouse, balance to the children equally or to their issue per stirpes. As to any separate real property of the decedent, spouse to get life estate in one-third. As to separate personal property, one-third to the spouse. Balance of real and personal property to the children equally or to their issue per stirpes.

Spouse and No Issue: All community and separate personal property to the spouse. As to separate real property, spouse's share to be one-half, and balance to parents equally. But if only the father or mother survive the intestate, the one-half of this balance to the surviving parent and other half to the brothers and sisters and their issue. But if none such, then the whole of this balance goes to the surviving parent. But if there is no parent, the whole of this balance goes to the brothers and sisters or to their issue per stirpes.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parents equally if both survive, or one-half to one surviving parent and one-half to the brothers and sisters equally or to their issue per stirpes, and, if none, to the surviving parent.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and if none, to the deceased person's next of kin.

UTAH

Spouse and Issue: If all the children are those of the surviving spouse also, the spouse receives the first \$50,000 in value, plus one-half of the balance of the intestate estate. But if any of the children are not those of the surviving spouse, the spouse receives only one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: If there is no surviving issue or parent of the decedent, the surviving spouse receives the entire estate. If any parent survives, the spouse receives \$100,000 plus one-half of the intestate estate; balance to the parent or parents equally.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

VERMONT

Spouse and Issue: If only one child or the issue of a deceased child survive, the spouse to get one-half and one-half to the child or its issue; if more than one child, then one-third to the spouse and two-thirds to the children equally or to their issue per stirpes.

Spouse and No Issue: \$25,000 plus one-half of the intestate estate to the spouse and the balance to the parent or parents equally, and, if none, to the brothers and sisters equally or to their issue per stirpes, and, if none, to the next of kin, and, if none, to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters of the decedent equally or to their issue per stirpes, and, if none, to the next of kin.

VIRGINIA

Spouse and Issue: Real property — spouse to receive one-third life estate, balance to the children equally or to their issue per stirpes. Personal property — one-third to the spouse and balance to the children equally or to their issue per stirpes.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and, if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and, if none, to the deceased person's next of kin.

WASHINGTON

Spouse and Issue: Surviving spouse to get all the community property. As to any separate property, one-half to the spouse and one-half to the children equally or to their issue per stirpes.

Spouse and No Issue: Surviving spouse to get all the community property. As to any separate property, three-fourths to the spouse and one-fourth to the parent or parents equally or to their issue, and, if none, all to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters equally or to their children per stirpes, and, if none, to the grandparents or to their issue.

WEST VIRGINIA

Spouse and Issue: Real property — spouse to receive one-third life estate, balance to the children equally or to their issue per stirpes. Personal property — one-third to the spouse and balance to the children equally or to their issue per stirpes.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the issue of the parents per stirpes, and if no issue of a parent, then one-half of the estate passes to the paternal grandparents or their issue per stirpes, and the other half to the maternal grandparents or their issue per stirpes; and if none, to the deceased person's next of kin.

WISCONSIN

Spouse and Issue: If all the children are also those of the surviving spouse, the spouse receives first \$25,000 plus one-half of the balance of the intestate estate. If any of the children are not issue of the surviving spouse, the spouse receives one-half of the estate. Balance to the children or their issue per stirpes.

Spouse and No Issue: All to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the surviving parent or parents equally.

No Spouse or Issue or Parents: All to the brothers and sisters equally or to their issue per stirpes, and, if none, to the grandparents, uncles, and aunts equally or to their issue per stirpes, and, if none, to the next of kin.

WYOMING

Spouse and Issue: One-half of the intestate estate to the surviving spouse, and one-half to the children equally or to their issue per stirpes.

Spouse and No Issue: \$20,000 plus three-fourths of the intestate estate to the surviving spouse. One-fourth to the parent or parents equally, and, if none, to the brothers and sisters equally or to their issue per stirpes, and, if none, to the spouse.

No Spouse but Issue: All to the children equally or to their issue per stirpes.

No Spouse or Issue but Parents: All to the parents, brothers and sisters equally, or to the issue of a brother or sister per stirpes.

No Spouse or Issue or Parents: All to the brothers and sisters equally or to their issue per stirpes, and, if none, to the grandparents, uncles, and aunts equally or to their issue per stirpes, and, if none, to the next of kin.

Appendix B

State-by-State Schedule of Commission Allowed to Executors and Trustees

Below are general guidelines that determine the commissions or fees authorized under various state statutes. Probate courts have the final jurisdiction as to what an executor or a trustee is entitled to. If the fiduciary was called upon to perform extraordinary services (such as, extensive litigation or complicated tax settlement), the courts may allow additional compensation.

Compensation of Fiduciaries

State	Executor, Administrator, or Personal Representative	Trustee under Will
Alabama	Just and fair but not in excess of 2-1/2% of disbursements.	No statutory provision.
Alaska	\$200 plus 2% of excess estate over \$4,000.	No statutory provision.
Arizona	Reasonable compensation.	No statutory provision.
Arkansas	Reasonable compensation not to exceed \$300 plus 3% of excess of personal property over \$5,000. Compensation for legal services not to exceed 5% of value of real and personal property up to \$5,000; 4% of next \$20,000; 3% of next \$75,000; 2-3/4% of next \$300,000; 2-1/2% of next \$600,000; and 2% of balance.	No statutory provision.
California	Commissions and fees of attorneys are each 4% of \$15,000; 3% on next \$85,000; 2% on next \$900,000; and 1% on excess over \$1,000,000.	Reasonable compensation.
Colorado	Reasonable compensation.	Reasonable compensation.
Connecticut	No statutory rates provided. Customarily based on percentage of gross estate administered.	Reasonable compensation.
Delaware	Provided by Rules of Court and based on value of gross estate. In summary as follows: \$10,000, \$800; \$60,000, \$2,850; \$15,000, \$5,400; \$300,000, \$8,700; \$500,000, \$12,500.	No statutory provision.
District of Columbia	Reasonable compensation of between 1% and 10% of gross estate.	No statutory provision.
Florida	Reasonable compensation.	No statutory provision.
Georgia	2-1/2% on money received and 2-1/2% on money paid out. On property distributed in kind, reasonable fee not to exceed 3%.	Same as for executors, etc.
Hawaii	On income, 7% on first \$5,000 and 5% on excess. On principal, 5% on first \$1,000, 4% on next \$9,000, 3% on next \$10,000, 2% on excess over \$20,000.	On income, same as executors, etc. On principal, 1% at inception; 1/10 of 1% on final distribution; 2-1/2% received after inception; 2-1/2% on payments before termination.
Idaho	Reasonable compensation.	Reasonable compensation.
Illinois	Reasonable compensation.	Reasonable compensation.
Indiana	Reasonable compensation.	Reasonable compensation.
Iowa	Reasonable compensation not to exceed 6% on first \$1,000, 4% on next \$4,000, 2% on excess. Attorney fees based on above.	Reasonable compensation.
Kansas	Reasonable compensation.	Reasonable compensation.

Kentucky	Not to exceed 5% of personal estate plus 5% of income.	5% of income plus 1/5 of 1% of principal annually, or at option of fiduciary 5% of principal when distributed.
Louisiana	2-1/2% of gross estate.	Reasonable compensation.
Maine	Not exceeding 5% of gross estate.	Same as executors, etc.
Maryland	Reasonable compensation not exceeding 10% of first \$20,000 of gross estate plus 4% of excess.	6% of real estate. Other income: 6-1/2% on first \$10,000, 5% on next \$10,000, 4% on next \$10,000, 3% on excess. Annual principal commissions, 4/10 of 1% on next \$250,000, 1/10 of 1% on final distribution.
Massachusetts	Reasonable compensation but following not considered unreasonable, 2-1/2% to 3% of first \$500,000 and 1% on excess.	Reasonable compensation.
Michigan	Reasonable compensation.	Reasonable compensation.
Minnesota	Reasonable compensation.	Reasonable compensation.
Mississippi	Not to exceed 7% of gross estate.	Reasonable compensation.
Missouri	5% on first \$5,000; 4% on next \$20,000; 3% on next \$75,000; 2-3/4% on next \$300,000; 2-1/2% on next \$600,000; 2% on excess.	Reasonable compensation.
Montana	Reasonable compensation not to exceed 3% of first \$40,000, 2% on excess. Attorney's fees not to exceed 1-1/2 times above.	Reasonable compensation.
Nebraska	Reasonable compensation.	Reasonable compensation.
Nevada	6% on first \$1,000; 4% on next \$4,000; 2% on excess.	Reasonable compensation.
New Hampshire	Reasonable compensation.	Reasonable compensation.
New Jersey	On income, 6%. On principal, 5% up to \$100,000 and on excess up to 5% in discretion of court. On distribution of principal, 2% if within 5 years of receipt, 1-1/2% if within 5-10 years of receipt, 1% above.	On income, 6%. On principal, annually, 5/10 of 1% on first \$100,000, 3/10 of 1% on next \$100,000, 2/10 of 1% on excess.
New Mexico	Reasonable compensation.	Reasonable compensation.
New York	For receiving and paying out first \$25,000, 4%; next \$125,000, 3-1/2%; next \$150,000, 3%; over \$300,000, 2%. Also, 5% of gross rents on real property. If gross estate is \$200,000 or more, each fiduciary (up to 3) allowed full commission; if \$100,000 to \$200,000, each fiduciary (up to 2) allowed full commission.	Annual commissions of \$7 per \$1,000 on first \$300,000 of principal; \$3.75 per \$1,000 on next \$500,000; \$2.50 per \$1,000 on balance. For paying out principal 1%. On income, 2% on first \$25,000, 1% on balance. Also, 6% of gross rents on real property. Same provisions as for executors, etc., for allocation where more than one trustee.
North Carolina	In discretion of clerk of court, not to exceed 5% of receipts and expenditures fairly made.	Same as for executors, etc.
North Dakota	Reasonable compensation.	Reasonable compensation.
Ohio	On personal property, real property sold and income, 4% on first \$100,000, 3% on next \$300,000, 2% on balance. Plus 1% on real estate subject to Ohio estate tax and not sold, other than jointly-owned.	Reasonable compensation.
Oklahoma	5% on first \$1,000; 4% on next \$4,000; 2-1/2% on excess.	Reasonable compensation.
Oregon	On estate, including income, 7% on first \$1,000; 4% on next \$9,000; 3% on next \$40,000; 2% on excess. Plus, 1% on other property subject to estate taxation.	Reasonable compensation.
Pennsylvania	Reasonable compensation but custom is to allow 5% on small estates (not defined) and 3% on large estates.	Reasonable compensation.
Rhode Island	Reasonable compensation.	Reasonable compensation.

South Carolina	2-1/2% on assets received and paid. 10% on interest received on money loaned.	Same as executors, etc.
South Dakota	5% on first \$1,000; 4% on next \$4,000; 2-1/2% on excess. Real property included in above when sold; otherwise, just compensation.	Reasonable compensation.
Tennessee	Reasonable compensation.	Reasonable compensation.
Texas	5% on sums paid in cash and 5% on sums received in cash, other than cash on hand.	Reasonable compensation.
Utah	Reasonable compensation.	Reasonable compensation.
Vermont	Reasonable compensation (minimum of \$4 per day).	Reasonable compensation.
Washington	Reasonable compensation.	Reasonable compensation.
Wisconsin	2% of estate.	Reasonable compensation.
Wyoming	10% on first \$1,000; 5% on next \$4,000; 3% on next \$15,000; 2% on excess.	Reasonable compensation.

MAINE STATUTORY WILL

NOTICE TO THE PERSON WHO SIGNS THIS WILL:

1. THIS STATUTORY WILL HAS SERIOUS LEGAL EFFECTS ON YOUR FAMILY AND PROPERTY. IF THERE IS ANYTHING IN THIS WILL THAT YOU DO NOT UNDERSTAND, YOU SHOULD CONSULT A LAWYER AND ASK HIM TO EXPLAIN IT TO YOU.
2. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR DEATH TO ANY PERSON BY OPERATION OF LAW OR BY CONTRACT. FOR EXAMPLE, THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS OR YOUR SPOUSE'S ELECTIVE SHARE, AND IT WILL NOT NORMALLY APPLY TO PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENEFITS.
3. THIS WILL IS NOT DESIGNED TO REDUCE DEATH TAXES OR ANY OTHER TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A COMPETENT TAX ADVISOR.
4. YOU CANNOT CHANGE, DELETE, OR ADD WORDS TO THE FACE OF THIS MAINE STATUTORY WILL. YOU SHOULD MARK THROUGH ALL SECTIONS OR PARTS OF SECTIONS WHICH YOU DO NOT COMPLETE. YOU MAY REVOKE THIS MAINE STATUTORY WILL AND YOU MAY AMEND IT BY CODICIL.
5. THIS WILL TREATS ADOPTED CHILDREN AS IF THEY ARE NATURAL CHILDREN.
6. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.
7. IF YOU HAVE ANOTHER CHILD AFTER YOU SIGN THIS WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.
8. THIS WILL IS NOT VALID UNLESS IT IS SIGNED BY AT LEAST TWO WITNESSES. YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS WILL.
9. YOU SHOULD KEEP THIS WILL IN YOUR SAFE-DEPOSIT BOX OR OTHER SAFE PLACE.
10. IF YOU HAVE ANY DOUBTS WHETHER OR NOT THIS WILL ADEQUATELY SETS OUT YOUR WISHES FOR THE DISPOSITION OF YOUR PROPERTY, YOU SHOULD CONSULT A LAWYER.

MAINE STATUTORY WILL OF

(Print your name)

Article 1. Declaration

This is my will and I revoke any prior wills and codicils.

Article 2. Disposition of my property

2.1 REAL PROPERTY. I give all my real property to my spouse, if living; otherwise it shall be equally divided among my children who survive me; except as specifically provided below: (specific distribution not valid without signature.)

I leave the following specific real property to the person(s) named:

(name)	(description of item)	(signature)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2.2 PERSONAL AND HOUSEHOLD ITEMS. I give all my furniture, furnishings, household items, personal automobiles, and personal items to my spouse, if living; otherwise they shall be equally divided among my children who survive me; except as specifically provided below: (specific distribution not valid without signature.)

I leave the following specific items to the persons(s) named:

(name)	(description of item)	(signature)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2.3 CASH GIFT TO CHARITABLE ORGANIZATIONS OR INSTITUTIONS: I make the following cash gift(s) to the named charitable organizations or institutions in the amount stated. If I fail to sign this provision, no gift is made. If the charitable organization or institution does not survive me or accept the gift, then no gift is made.

(name)	(description of item)	(signature)
_____	_____	_____
_____	_____	_____
_____	_____	_____

2.4 ALL OTHER ASSETS (MY 'RESIDUARY ESTATE'). I adopt only one Property Disposition Clause by placing my initials in the box in front of the letter 'A', 'B' or 'C' signifying which clause I wish to adopt. I place my signature after clause 'A' or clause 'B', or after each individual distribution in clause 'C'. If I fail to sign the appropriate distribution(s) or if I sign in more than one clause or if I fail to place my initials in the appropriate box, this paragraph 2.4 will be invalid and I realize that the remainder of my property will be distributed as if I did not make a will.

Property Disposition Clauses. (select one).

_____ A. I leave all my remaining property to my spouse, if living. If not living, then in equal shares to my children and the descendants of any deceased child.

_____ (signature)

_____ B. I leave the following stated amount to my spouse _____ and the remainder in equal shares to my children and the descendants of any deceased child. If my spouse is not living, that share shall be distributed in equal shares to my children and the descendants of any deceased child.

_____ (signature)

_____ C. I leave the following stated amounts to the persons named:

(name)	(amount)	(signature)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2.5 UNDISTRIBUTED PROPERTY. If I have any property which, for any reason, does not pass under the other parts of this will, all of that property shall be distributed as follows: (Draw a line through any unused space.)

(this paragraph only valid if signed)

Article 3. Nomination of guardian, conservator and personal representative

3.1 GUARDIAN. (If you have a child under 18 years of age, you may name at least one person to serve as guardian for the child.)

If a guardian is needed for any child of mine, then I nominate the first guardian named below to serve as guardian of that child. If the person does not serve, then the others shall serve in the order I list them. My nomination of a guardian is not valid without my signature.

FIRST GUARDIAN	_____	_____
		(signature)
SECOND GUARDIAN	_____	_____
		(signature)
THIRD GUARDIAN	_____	_____
		(signature)

3.2 CONSERVATOR. (A conservator may be named to manage the property of a minor child. You do not need to name a conservator if you wish the guardian to act as conservator. If you wish to name a conservator in addition to a guardian, complete this paragraph, 3.2. If you do not wish to name a separate conservator, do not complete this paragraph.)

I nominate the first conservator named below to serve as conservator for any minor children of mine. If the first conservator does not serve, then the others shall serve in the order I list them. My nomination of a conservator is not valid without my signature.

FIRST CONSERVATOR	_____	_____
		(signature)
SECOND CONSERVATOR	_____	_____
		(signature)
THIRD CONSERVATOR	_____	_____
		(signature)

3.3 PERSONAL REPRESENTATIVE. (Name at least one.) I nominate the person or institution named as first personal representative below to administer the provisions of this will. If that person or institution does not serve, then I nominate the others to serve in the order I list them. My nomination of a personal representative is not valid without my signature.

FIRST PERSONAL REPRESENTATIVE	_____	_____
		(signature)
SECOND PERSONAL REPRESENTATIVE	_____	_____
		(signature)
THIRD PERSONAL REPRESENTATIVE	_____	_____
		(signature)

I sign my name to this Maine Statutory Will on _____ at _____
(date) (city)

in the State of _____.

Your Signature

STATEMENT OF WITNESSES (You must have two witnesses.)

Each of us declares that the person who signed above willingly signed this Maine Statutory Will in our presence or willingly directed another to sign it for him or her or that he or she acknowledged that the signature on this Maine Statutory Will is his or hers or that he or she acknowledged this Maine Statutory Will is his or her will and we sign below as witnesses to that signing.

Signature _____

Printed name _____

Address _____

Signature _____

Printed name _____

Address _____

WISCONSIN BASIC WILL

NOTICE TO THE PERSON WHO SIGNS THIS WILL:

1. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR DEATH TO ANY PERSON BY OPERATION OF LAW OR BY ANY CONTRACT. FOR EXAMPLE, THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS, AND IT DOES NOT NORMALLY APPLY TO PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENEFITS.

2. THIS WILL IS NOT DESIGNED TO REDUCE TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A COMPETENT TAX ADVISOR.

3. THIS WILL MAY NOT WORK WELL IF YOU HAVE CHILDREN BY A PREVIOUS MARRIAGE OR IF YOU HAVE BUSINESS PROPERTY, PARTICULARLY IF THE BUSINESS IS UNINCORPORATED.

4. YOU CANNOT CHANGE, DELETE OR ADD WORDS TO THE FACE OF THIS WISCONSIN BASIC WILL. YOU MAY REVOKE THIS WISCONSIN BASIC WILL, AND YOU MAY CHANGE IT BY SIGNING A NEW WILL.

5. THE FULL TEXT OF THIS WISCONSIN BASIC WILL, THE DEFINITIONS, THE PROPERTY DISPOSITION CLAUSES AND THE MANDATORY CLAUSES FOLLOW THE END OF THIS WILL AND ARE CONTAINED IN THE PROBATE CODE OF WISCONSIN (CHAPTERS 851 TO 882 OF THE WISCONSIN STATUTES).

6. THE WITNESSES TO THIS WILL SHOULD NOT BE PEOPLE WHO MAY RECEIVE PROPERTY UNDER THIS WILL. YOU SHOULD READ AND CAREFULLY FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS WILL. ALL OF THE WITNESSES MUST WATCH YOU SIGN THIS WILL. EACH WITNESS MUST SIGN HIS OR HER NAME WITH YOU AND THE OTHER WITNESS PRESENT.

7. YOU SHOULD KEEP THIS WILL IN YOUR SAFE-DEPOSIT BOX OR OTHER SAFE PLACE.

8. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.

9. THIS WILL TREATS ADOPTED CHILDREN AS IF THEY ARE NATURAL CHILDREN.

10. IF YOU HAVE CHILDREN UNDER 21 YEARS OF AGE, YOU MAY WISH TO USE THE WISCONSIN BASIC WILL WITH TRUST OR ANOTHER TYPE OF WILL.

11. IF THIS WISCONSIN BASIC WILL DOES NOT FIT YOUR NEEDS, YOU MAY WANT TO CONSULT WITH A LAWYER.

WISCONSIN BASIC WILL OF

(Insert Your Name)

Article 1. Declaration.

This is my will and I revoke any prior wills and codicils (additions to prior wills).

Article 2. Disposition of My Property

2.1 PERSONAL RECREATIONAL AND HOUSEHOLD ITEMS. Except as provided in paragraph 2.2, I give all my furniture, furnishings, household items, recreational equipment, personal automobiles and personal effects to my spouse, if living; otherwise they shall be divided equally among my children who survive me.

2.2 GIFTS TO PERSONS OR CHARITIES. I make the following gifts to the persons or charities in the cash amount stated in words (...Dollars) and figures (\$...) or of the property described. **I SIGN IN EACH BOX USED. I WRITE THE WORDS 'NOT USED' IN THE REMAINING BOXES.** If I fail to sign opposite any gift, then no gift is made. If the person mentioned does not survive me or if the charity does not accept the gift, then no gift is made.

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR. _____
FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR. _____
FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR. _____
FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR. _____
FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR. _____

2.3 ALL OTHER ASSETS (MY 'RESIDUARY ESTATE'). I adopt only one Property Disposition Clause in this paragraph by writing my signature on the line next to the title of the Property Disposition Clause I wish to adopt. **I SIGN ON ONLY ONE LINE. I WRITE THE WORDS 'NOT USED' ON THE REMAINING LINE.** If I sign on more than one line of [sic] if I fail to sign on any line, the property will go under Property Disposition Clause (b) and I realize that means the property will be distributed as if I did not make a will in accordance with Chapter 852 of the Wisconsin Statutes.

PROPERTY DISPOSITION CLAUSES (Select one.)

- (a) **TO MY SPOUSE IF LIVING; IF NOT LIVING, THEN TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD BY RIGHT OF REPRESENTATION.** _____
- (b) **TO BE DISTRIBUTED AS IF I DID NOT HAVE A WILL.** _____

Article 3. Nominations of Personal Representative and Guardian

3.1 PERSONAL REPRESENTATIVE. (Name at least one.)

I nominate the person or institution named in the first box of this paragraph to serve as my personal representative. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes. I confer upon my personal representative the authority to do and perform any act which he or she determines is in the best interest of the estate, with no limitations. This provision shall be given the broadest

possible construction. This authority includes, but is not limited to, the power to borrow money, pledge assets, vote stocks and participate in reorganizations, to sell or exchange real or personal property, and to invest funds and retain securities without any limitation by law for investments by fiduciaries.

FIRST PERSONAL REPRESENTATIVE

SECOND PERSONAL REPRESENTATIVE

THIRD PERSONAL REPRESENTATIVE

3.2 GUARDIAN. (If you have a child under 18 years of age, you should name at least one guardian of the child.)

If my spouse dies before I do or if for any other reason a guardian is needed for any child of mine, then I nominate the person named in the first box of this paragraph to serve as guardian of the person and estate of that child. If the person does not serve, then I nominate the person named in the second box of this paragraph to serve as guardian of that child.

FIRST GUARDIAN

SECOND GUARDIAN

3.3. BOND.

My signature in this box means I request that a bond, as set by law, be required for each individual personal representative or guardian named in this will. **IF I DO NOT SIGN IN THIS BOX, I REQUEST THAT A BOND NOT BE REQUIRED FOR ANY OF THOSE PERSONS.**

I sign my name to this Wisconsin Basic Will on _____ (date), at _____(city),
_____ (state).

Signature of Testator

STATEMENT OF WITNESSES (You must use two adult witnesses.)

EACH OF US DECLARES THAT THE TESTATOR SIGNED THIS WISCONSIN BASIC WILL IN OUR PRESENCE, ALL OF US BEING PRESENT AT THE SAME TIME, AND WE NOW, AT THE TESTATOR'S REQUEST, IN THE TESTATOR'S PRESENCE AND IN THE PRESENCE OF EACH OTHER, SIGN BELOW AS WITNESSES, DECLARING THAT THE TESTATOR APPEARS TO BE OF SOUND MIND AND UNDER NO UN-DUE INFLUENCE.

Signature _____ Residence Address: _____
Print Name _____
Here: _____

Signature _____ Residence Address: _____
Print Name _____
Here: _____

WISCONSIN BASIC WILL WITH TRUST

NOTICE TO THE PERSON WHO SIGNS THIS WILL:

1. THIS FORM CONTAINS A TRUST FOR YOUR FAMILY. IF YOU DO NOT WANT TO CREATE A TRUST, DO NOT USE THIS FORM.

2. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR DEATH TO ANY PERSON BY OPERATION OF LAW OR BY ANY CONTRACT. FOR EXAMPLE, THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS, AND IT DOES NOT NORMALLY APPLY TO PROCEEDS OF LIFE INSURANCE ON YOU LIFE OR YOUR RETIREMENT PLAN BENEFITS.

3. THIS WILL IS NOT DESIGNED TO REDUCE TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A COMPETENT TAX ADVISOR.

4. THIS WILL MAY NOT WORK WELL IF YOU HAVE CHILDREN BY A PREVIOUS MARRIAGE OR IF YOU HAVE BUSINESS PROPERTY, PARTICULARLY IF THE BUSINESS IS UNINCORPORATED.

5. YOU CANNOT CHANGE, DELETE OR ADD WORDS TO THE FACE OF THIS WISCONSIN BASIC WILL WITH TRUST. YOU MAY REVOKE THIS WISCONSIN BASIC WILL WITH TRUST, AND YOU MAY CHANGE IT BY SIGNING A NEW WILL.

6. THE FULL TEXT OF THIS WISCONSIN BASIC WILL WITH TRUST, THE DEFINITIONS, THE PROPERTY DISPOSITION CLAUSES AND THE MANDATORY CLAUSES FOLLOW THE END OF THIS WILL AND ARE CONTAINED IN THE PROBATE CODE OF WISCONSIN (CHAPTERS 851 TO 882 OF THE WISCONSIN STATUTES).

7. THE WITNESSES TO THIS WILL SHOULD NOT BE PEOPLE WHO MAY RECEIVE PROPERTY UNDER THIS WILL. YOU SHOULD READ AND CAREFULLY FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS WILL. ALL OF THE WITNESSES MUST WATCH YOU SIGN THIS WILL. EACH WITNESS MUST SIGN HIS OR HER NAME WITH YOU AND THE OTHER WITNESS PRESENT.

8. YOU SHOULD KEEP THIS WILL IN YOUR SAFE-DEPOSIT BOX OR OTHER SAFE PLACE.

9. THIS WILL TREATS ADOPTED CHILDREN AS IF THEY ARE NATURAL CHILDREN.

10. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.

11. IF THIS WISCONSIN BASIC WILL WITH TRUST DOES NOT FIT YOUR NEEDS, YOU MAY WANT TO CONSULT WITH A LAWYER.

[A printed form for a Wisconsin basic will with trust shall set forth the above notice in 10-point boldface type.]

WISCONSIN BASIC WILL WITH TRUST OF

(Insert Your Name)

Article 1. Declaration

This is my will and I revoke any prior wills and codicils (additions to prior wills).

Article 2. Disposition of My Property

2.1. PERSONAL, RECREATIONAL AND HOUSEHOLD ITEMS. Except as provided in paragraph 2.2, I give all my furniture, furnishings, household items, recreational equipment, personal automobiles and personal effects to my spouse, if living; otherwise they shall be divided equally among my children who survive me.

2.2. GIFTS TO PERSONS OR CHARITIES. I make the following gifts to the persons or charities in the cash amount stated in words (...Dollars) and figures (\$....) or of the property described. **I SIGN IN EACH BOX USED. I WRITE THE WORDS 'NOT USED' IN THE REMAINING BOXES.** If I fail to sign opposite any gift, then no gift is made. If the person mentioned does not survive me or if the charity does not accept the gift, then no gift is made.

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR. _____
---	--	--

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR. _____
---	--	--

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR. _____
---	--	--

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR. _____
---	--	--

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR.
---	--	-------------------------------

2.3 ALL OTHER ASSETS (MY 'RESIDUARY ESTATE'). I adopt only one Property Disposition Clause in this paragraph by writing my signature on the line next to the title of the Property Disposition Clause I wish to adopt. **I SIGN ON ONLY ONE LINE. WRITE THE WORDS 'NOT USED' ON THE REMAINING LINES.** If I sign on more than one line or if I fail to sign on any line, the property will be distributed as if I did not make a will in accordance with Chapter 852 of the Wisconsin Statutes.

IF YOU HAVE A SUBSTANTIAL ESTATE, CHOOSING CLAUSE (a) OR (b) MIGHT NOT BE THE MOST ADVANTAGEOUS TAX OPTION AVAILABLE TO YOU. If you have questions concerning the tax implications of these clauses, you should consult a competent tax advisor.

PROPERTY DISPOSITION CLAUSES (Select one.)

(a) **TO MY SPOUSE IF LIVING; IF NOT LIVING, THEN IN ONE TRUST TO PROVIDE FOR THE SUPPORT AND EDUCATION OF MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD BY RIGHT OF REPRESENTATION UNTIL I HAVE NO LIVING CHILD UNDER 21 YEARS OF AGE.** _____

(IF YOU CHOOSE THIS CLAUSE AND YOU DO NOT WANT 21 YEARS OF AGE TO APPLY, PRINT A DIFFERENT AGE, 18 OR ABOVE, AND SIGN ON THIS LINE.) _____

(b) **TO MY SPOUSE AND CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD BY RIGHT OF REPRESENTATION IN ONE TRUST TO PROVIDE FOR THEIR SUPPORT AND EDUCATION UNTIL I HAVE NO LIVING SPOUSE AND NO LIVING CHILD UNDER 21 YEARS OF AGE.** _____

(IF YOU CHOOSE THIS CLAUSE AND YOU DO NOT WANT 21 YEARS OF AGE TO APPLY, PRINT A DIFFERENT AGE, 18 OR ABOVE, AND SIGN ON THIS LINE.) _____

Article 3. Nominations of Personal Representative, Trustee and Guardian

3.1. PERSONAL REPRESENTATIVE.(Name at least one.)

I nominate the person or institution named in the first box of this paragraph to serve as my personal representative. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes. I confer upon my personal representative the authority to do and perform any act which he or she determines is in the best interest of the estate, with no limitations. This provision shall be given the broadest possible construction. This authority includes, but is not limited to, the power to borrow money, pledge assets, vote stocks and participate in reorganizations, to sell or exchange real or personal property, and to invest funds and retain securities without any limitation by law for investments by fiduciaries.

FIRST PERSONAL REPRESENTATIVE

SECOND PERSONAL REPRESENTATIVE

THIRD PERSONAL REPRESENTATIVE

3.2. TRUSTEE. (Name at least one.)

Because it is possible that after I die my property may be put into a trust, I nominate the person or institution named in the first box of this paragraph to serve as trustee of that trust. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes.

FIRST TRUSTEE

SECOND TRUSTEE

THIRD TRUSTEE

3.3. GUARDIAN. (If you have a child under 18 years of age, you should name at least one guardian of the child.)

If my spouse dies before me or for any other reason a guardian is needed for any child of mine, then I nominate the person named in the first box of this paragraph to serve as guardian of the person and estate of that child. If the person does not serve, then I nominate the person named in the second box of this paragraph to serve as guardian of that child.

FIRST GUARDIAN

SECOND GUARDIAN

3.4. BOND.

My signature in this box means I request that a bond, as set by law, be required for each individual personal representative, trustee or guardian named in this will. **IF I DO NOT SIGN IN THIS BOX, I REQUEST THAT A BOND NOT BE REQUIRED FOR ANY OF THOSE PERSONS.**

I sign my name to this Wisconsin Basic Will With Trust on _____ (date), at _____ (city),
_____ (state).

Signature of Testator

STATEMENT OF WITNESSES (You must use two adult witnesses.)

EACH OF US DECLARES THAT THE TESTATOR SIGNED THIS WISCONSIN BASIC WILL WITH TRUST IN OUR PRESENCE, ALL OF US BEING PRESENT AT THE SAME TIME, AND WE NOW, AT THE TESTATOR'S REQUEST, IN THE TESTATOR'S PRESENCE AND IN THE PRESENCE OF EACH OTHER, SIGN BELOW AS WITNESSES, DECLARING THAT THE TESTATOR APPEARS TO BE OF SOUND MIND AND UNDER NO UN-DUE INFLUENCE.

Signature _____ Residence Address: _____
Print Name _____
Here: _____

Signature _____ Residence Address: _____
Print Name _____
Here: _____

**Appendix C
More Sample Wills**

WILL OF SINGLE PERSON

The following sample will may be applicable to a single or unmarried person with a small to moderate estate. It contains specific clauses for cash bequests to Custodian under Uniform Gifts to Minors Act if beneficiaries are under twenty-one. Residuary estate is disposed of to specific individuals, if surviving; if not, to their issue.

I, _____ [name], of _____
_____ [address], State of _____, declare this to be my
last will and testament.

FIRST

(Prior Wills Revoked)

I revoke all my prior wills and codicils.

SECOND

(Tangible Personal Property)

I give all my tangible personal property in equal shares to _____
_____ [name of beneficiary], and _____ [name of
beneficiary], if they both survive me, or if only one of them survives me, all to the survivor.

THIRD

(Cash Bequests)

I make following cash bequests: [name individual beneficiaries and cash amount of bequest]

_____	\$ _____
_____	\$ _____
_____	\$ _____

If any such person has not attained the age of twenty-one years at the time of my death, such gift shall be held by his or her parent as Custodian for such person under the Uniform Gifts to Minors Act.

FOURTH

(Residuary Estate)

I direct that all the rest of my property, hereinafter referred to as "my residuary estate," be divided into two equal shares, and I dispose of such shares as follows:

(a) I give one such share to _____ [name of beneficiary], if she survives me, and if not, to her issue surviving me, per stirpes; if she has no such issue, this share shall be disposed of as provided in subarticle (b) of this article FOURTH.

(b) I give one such share to _____ [name of beneficiary], if he survives me, and if not, to his issue surviving me, per stirpes; if he has no such issue, this share shall be disposed of as provided in subarticle (a) of this article FOURTH.

FIFTH

(Minor Beneficiaries)

If any person has not attained the age of twenty-one years when he or she becomes entitled to a share of my residuary estate, title to the property constituting such share shall vest in such person but my executors shall retain possession of such property. My executors shall pay to, or apply for the benefit of, such person so much or all of the income and principal as my executors, in their sole discretion, determine to be necessary or desirable for the support, maintenance, education, health or other benefit of such person. Any income not so paid to or for the benefit of such person may be accumulated for his or her benefit and paid to him or her at any time or added to principal. All principal not previously paid and any accumulated income shall be paid to such person when he or she attains the age of twenty-one years, or to his or her estate upon his or her death prior to attaining such age.

In making payments of income or principal to or for the benefit of such person, my executors are also authorized, in their sole discretion, to make such payments to a parent or guardian of such person or to an adult person with whom he or she resides. The receipt for such payment executed by the parent, guardian or other person to whom the income or principal payment is made shall be a complete discharge of my executors from liability with respect to such payment.

SIXTH

(Death Taxes)

I direct that all estate, inheritance and other death taxes (including any interest thereon and penalties with respect thereto), federal, state and other, imposed by reason of my death, in respect of property passing under this will or otherwise, shall be paid out of my residuary estate.

SEVENTH

(Appointment of Executor)

I appoint _____ [designate executor], as executor of this will. If such named executor, for any reason, fail to qualify or at any time cease to act as executor, I appoint _____ [name substitute executor], as executor in his or her place.

No one acting as executor shall be required to furnish bond or security of any kind for the faithful performance of his or her duties as executor.

Any reference in this will to my executors shall be deemed to refer to survivors and successors.

EIGHTH

(Powers of Executor)

In addition to the powers conferred upon my executors by law or by other provisions of this will, I direct that they shall have full discretionary power to retain any property which I may own at the time of my death or which may at any time be in their hands for as long a period of time as they deem advisable; to sell, exchange or otherwise dispose of any such property, real or personal, at public or

private sale, without application to court, on any terms they deem advisable; to acquire any property, real or personal, without regard to any principles of diversification, including but not limited to common and preferred stocks, bonds, mutual funds, common trust funds, secured and unsecured obligations, and mortgages; to borrow money from any source and for any purpose, including but not limited to the payment of taxes, and to pledge or mortgage any assets of my estate as security for money borrowed; to pay any gift and to make distributions of my estate in cash or in kind, or partly in each, and to allocate property to any gift or share other than ratably. My executors shall continue to have all the rights, powers and duties herein vested in them until the complete distribution of all property held by them.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 19_____.

Testator

WE, the undersigned witnesses, do hereby certify and attest that the foregoing instrument was subscribed by the above-named testator, _____, in our presence, and that the said testator, at the time of making such subscription, declared the said instrument to be his last will and testament, and we thereupon, and the request of said testator, and in his presence and in the presence of each other, have signed our names hereto as attesting witnesses.

_____ residing at _____

_____ residing at _____

_____ residing at _____

AFFIDAVIT

STATE OF _____

CITY

COUNTY OF _____

or

TOWN _____

Personally appeared (1)

(2) _____ and (3) _____

who being duly sworn, depose and say that they attested the said will and they subscribed the same at the request and in the presence of the said testator and in the presence of each other, and the said testator signed said will in their presence and acknowledged that he had signed said will and declared the same to be his LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said will the said testator appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the testator.

(1) _____

(2) _____

(3) _____

Subscribed and sworn to before me this _____ day of _____, 19_____

(Notary Seal)

Notary Public

WILL OF MARRIED PERSON WITH MINOR CHILDREN

The following sample will may be applicable to a married person with minor children who has a moderate estate. The will provides for the entire estate to pass to the spouse if surviving. If the spouse doesn't survive, the will contains separate share trusts for surviving children, and gifts to issue of predeceased children; if neither spouse nor children survive, the residuary estate is divided between families of both spouses. As a special feature, the will creates a trust for the benefit of minor children and provides for gradual distribution of their share of estate until they reach the age of 35. Such a plan may be attractive to those who fear that their children may not be mature enough to handle their inheritance.

I, _____ [name of testator], of _____
_____ [address], State of _____, declare this to be my last will and
testament.

FIRST

(Prior Wills Revoked)

I revoke all my prior wills and codicils.

SECOND

(Tangible Personal Property)

I give all my tangible personal property to my wife, _____, if she survives me, together with all insurance policies thereon, if any. If my wife does not survive me, I give such property to those of my children who survive me, in approximately equal shares, as my executors in their exclusive discretion shall determine.

THIRD

(Residuary Estate)

I give all the rest of my property, hereinafter referred to as "my residuary estate," to my wife, _____, if she survives me. If my wife does not survive me, my residuary estate shall be disposed of as proved in article FOURTH if I have issue surviving me, or as provided in article FIFTH if I have no such issue.

FOURTH

(Trusts for Children)

If my wife does not survive me, but I have issue surviving me, my executors shall divide my residuary estate into as many equal shares as will permit them to set apart one such share for each child of mine who survives me and one such share for the issue surviving me of each child of mine who fails to survive me but leaves such issue, and I dispose of such shares as follows:

(a) I give one such share to the issue surviving me of each child of mine who fails to survive me but leaves such issue.

(b) I give one such share to each child of mine who survives me and has attained the age of thirty-five years at the time of my death.

(c) I give each share which is set apart for a child of mine who survives me but has not attained the age of thirty-five years at the time of my death ("the beneficiary") to my Trustees, IN TRUST, during the life of the beneficiary or until the earlier termination of the trust, for the following purposes:

(1) During the minority of the beneficiary, in the sole discretion of my Trustees, to pay any part or all of the income to, or to accumulate any part or all of the income for the benefit of, the beneficiary. Any income not so paid or accumulated shall be added to the principal of the trust.

(2) After the beneficiary has attained the age of twenty-one years, to pay the income to him or her in convenient installments at least quarter-annually.

(3) To pay to the beneficiary at any time or times prior to the termination of the trust, such sums from or any part or all of the principal as my Trustees may, in their sole discretion, determine to be reasonably necessary to permit the beneficiary to maintain his or her usual standard of living, including the costs of his or her education, and the expenses of any illness or accident which may affect him or her.

(4) To pay to the beneficiary, upon his or her attaining the age of twenty-five years, a sum from or part of the property which then constitutes the principal of the trust equivalent in value to one-third of such principal; to pay to the beneficiary, upon his or her attaining the age of thirty years, a sum from or part of the property which then constitutes the principal of the trust equivalent in value to one-half of such principal; and to pay to the beneficiary upon his or her attaining the age of thirty-five years, the entire principal, if any, remaining at that time.

If the beneficiary has attained the age of twenty-five or thirty years prior to his or her share being set apart, then when such share is set apart for his or her benefit, my Trustees shall distribute to him or her one-third or two-thirds of the value thereof, as the case may be.

(5) Upon the death of the beneficiary prior to his or her thirty-fifth birthday, to pay the then remaining principal, if any, to his or her then living issue, or if he or she has no such issue, to my then living issue, except that any share which would be payable to a child of mine who is then under the age of thirty-five years shall instead be added to the principal of the trust created under this subarticle (c) of article FOURTH for the primary benefit of such child. If I have no issue then living, such principal shall be disposed of as provided in article FIFTH.

FIFTH

(Contingent Beneficiaries)

Any property which I have directed to be disposed of as provided in this article shall be divided into two equal parts, which I dispose of as follows:

(a) I give one such part to my mother, _____, if she is then living. If my mother is not then living, or if she disclaims all or a portion of her part, then I give this part, or the disclaimed portion thereof, to the then living issue of my parents, _____, in equal shares.

(b) I give the other such part, in equal shares, to my mother-in-law, _____, and my father-in-law, _____, if they are both then living, or if only one of them is then living, all to the survivor. If neither my mother-in-law nor my father-in-law is then living, or if one or both of them disclaim all or a portion of their shares, then I give this part, or the disclaimed portion thereof, to the then living issue of my mother-in-law and my father-in-law in equal shares.

SIXTH

(Minor Beneficiaries)

If, under the terms of other provisions of this will, any money or other property is required to be distributed to a person who is a minor or who is otherwise under a disability (such as incompetency), I direct that such money or other property not be so distributed, but that instead it be held by my Trustees, IN TRUST, for the following purposes:

(a) During the period of minority or other disability, the Trustees shall pay to the minor or other person under a disability any part or all of the income or principal as the Trustees may, in their discretion, determine to be reasonably necessary for such person's support, maintenance, education, or health or to meet the costs of any illness or accident affecting such person.

(b) During the period of minority or other disability, the Trustees may accumulate any part of the income not disposed of pursuant to subarticle (a) of this article, or they may add such income to principal.

(c) Upon the termination of minority or other disability, the Trustees shall pay all remaining property to the person whose minority or disability has terminated, or in the event such person has died before attaining majority or without termination of the disability, the Trustees shall distribute such property to such person's estate.

SEVENTH

(Payments to Guardian)

Any property which my Trustees are authorized to pay to a person who is a minor or otherwise under a disability, may, in the discretion of my Trustees, be paid for the benefit of such person to a guardian or to another individual who is not under a disability with whom the minor or otherwise disabled person resides. If my Trustees, obtain a receipt for any payment made in accordance with this provision, such receipt shall fully discharge them from liability with respect to such payment and from further accountability therefore.

EIGHTH

(Application of Funds)

Whenever my Trustees are directed or authorized to make payments to a person, my Trustees are authorized, in their discretion, to apply such payments to or for the use of such person.

NINTH

(Accumulation of Income)

Any income which has been accumulated by my Trustees for the benefit of a specified person may be paid to such person at any time prior to the termination of the trust which earned the income and shall be paid to such person upon such termination. In the event that such person dies prior to the termination of such trust, any such accumulated income shall be paid to his or her estate.

TENTH

(Definitions)

The word "issue" as used in this will shall mean issue per stirpes, and shall include those born after my death. The word "minor" as used in this will shall mean a person who has not attained the age of twenty-one years. The use of the masculine shall include the feminine, the feminine shall include the masculine, and the use of the singular and the plural shall be interchangeable.

ELEVENTH

(Death Taxes)

I direct that all estate, inheritance and other death taxes (including any interest thereon and penalties with respect thereto), federal, state and other, imposed by reason of my death, in respect of property passing under this will or otherwise, shall be paid out of my residuary estate.

TWELFTH

(Simultaneous Death)

If my wife, _____, and I should die under such circumstances that it cannot be determined which of us died first, my wife shall be deemed to have survived me.

THIRTEENTH

(Guardian of Minors)

If my wife, _____, does not survive me, I appoint _____ as guardian of the person and property of each of my children during his or her minority. If the said guardian for any reason fails to qualify or ceases to act as guardian, I appoint _____, as guardian in his or her place. No one acting as guardian shall be required to furnish any bond or security of any kind for the faithful performance of his or her duties as guardian.

FOURTEENTH

(Appointment of Executor)

I appoint my wife, _____, as executrix of this will. If she, for any reason, fails to qualify or at any time ceases to act as executrix, I appoint _____ as executor in her place.

I appoint _____, and _____, as Trustees of the trusts created herein.

If the number of Trustees acting hereunder is at any time reduced to one, I authorize such last acting Trustee to appoint either a co-Trustee or a successor Trustee. Any such appointment shall be made by a written instrument filed with the court in which my will is admitted to probate.

Any reference in this will to my executrix or Trustees shall be deemed to refer to successors, survivors and co-Trustees appointed as above authorized.

No one acting as executrix or Trustee shall be required to furnish any bond or security of any kind for the faithful performance of his or her duties as executrix or Trustee.

FIFTEENTH

(Powers of Executor)

In addition to the powers conferred by law or by other provisions of this will upon my executrix and my Trustees, I direct that they shall have the following discretionary powers:

(1) To retain any property which I may own at the time of my death or which may at any time be in their hands, or to sell, exchange or otherwise dispose of any such property, at public or private sale, without application to court, on any terms, including the extension of credit, which they deem advisable.

(2) To acquire, by purchase or otherwise, any property, real or personal, without being limited by any provision of law which restricts investments by fiduciaries and without regard to any principles of diversification, including but not limited to common and preferred stocks, bonds, mutual funds, common trust funds, secured and unsecured obligations and mortgages.

(3) To acquire and pay for, exercise, or sell any options or subscription rights in connection with securities or any other property.

(4) To hold securities in the names of nominees or in bearer form.

(5) To operate, repair, alter, improve, insure, grant options upon, mortgage, partition, or lease for any period of time any real property or interest in real property which at any time forms part of my estate or of any trust herein created.

(6) To retain and pay, as an expense of administration, accountants, attorneys, bookkeepers, investment advisors, stenographers, and other assistants.

(7) To borrow money from any source and for any purpose, including but not limited to the payment of taxes, and to pledge or mortgage any assets of my estate or of any trust created hereunder as security for money borrowed.

(8) To pay any gift and to make distributions of my estate or from any trust created hereunder in cash or in kind, or partly in each, and to allocate property to any gift or trust other than ratably.

(9) To hold property of separate trusts in common investments for convenience of investment or administration.

(10) To determine whether to claim deductions available to me or to my estate on estate tax or on income tax returns, and to determine whether to use date of death or alternate valuation date values for estate tax purposes, in such manner as they consider advisable and with or without making any adjustment between income and principal or among beneficiaries due to any such determination, as they, in their discretion, decide.

(11) To determine whether or not to consent to an election by any corporation to be taxed under Subchapter S of the Internal Revenue Code of 1954, as amended.

(12) To continue any business in which I have an interest for any period of time which they consider advisable, or to sell or otherwise dispose of any such business.

(13) Whenever more than one executor or Trustee has been appointed and is acting as such, to delegate to any one of my executors or Trustees any nondiscretionary power, including but not limited to the power to sign checks and bank withdrawal slips and the power to have access to safe deposit boxes in which property belonging to my estate or to any trust created hereunder is being held.

My Trustees shall continue to have all the rights, powers and duties herein vested in them after the termination of any trust created hereunder and until the complete distribution of all property held by them.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 19 _____.

Testator

WE, the undersigned witnesses, do hereby certify and attest that the foregoing instrument was subscribed by the above-named testator, _____, in our presence, and that the said testator, at the time of making such subscription, declared the said instrument to be his last will and testament, and we thereupon, at the request of said testator, and in his presence and in the presence of each other, have signed our names hereto as attesting witnesses.

_____ residing at _____

_____ residing at _____

_____ residing at _____

AFFIDAVIT

STATE OF _____

CITY

or

COUNTY OF _____

TOWN _____

Personally appeared (1) _____

(2) _____ and (3) _____

who being duly sworn, depose and say that they attested the said will and they subscribed the same at the request and in the presence of the said testator and in the presence of each other, and the said testator signed said will in their presence and acknowledged that he had signed said will and declared the same to be his LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said will the said testator appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the testator.

(1) _____

(2) _____

(3) _____

Subscribed and sworn to before me this _____ day of _____, 19_____.

(Notary Seal)

Notary Public

POUR-OVER INTO EXISTING INTER-VIVOS (LIVING) TRUST

Revocable living trusts are becoming a popular means of disposing of a majority of an estate for many estate owners. A trust avoids probate, and its attendant enormous costs, delays and headaches. If you've set up such a trust as a cornerstone of your estate planning, you'll also need a will to dispose of any residuary estate, and any assets acquired subsequent to the formation of the trust. A pour-over will serves exactly this purpose. Although the assets "poured over" into the trust after the death of the estate owner will not escape probate, you'll achieve uniform disposition of your assets under the terms of one instrument, i.e., the inter-vivos trust.

The sample pour-over will shown below transfers tangible personal property to the surviving spouse, residuary estate to the trust (which, incidentally, has the husband and wife serving in the capacity of trustees) and provides for minors' share of property to be held in trust by the executor.

WILL OF

I, _____ [name], of _____
[address], _____ County, State of _____, declare
this to be my Last Will and Testament, and hereby revoke all other wills and codicils previously made
by me.

ARTICLE ONE

(Payments of Debts, Expenses)

I direct that all of my just debts, including expenses of my last illness, and funeral expenses be paid as soon as practicable after my death.

ARTICLE TWO

(Tangible Personal Property)

I give all my tangible personal property, including but not limited to my household furniture, furnishings, and other articles of household use or ornament, works of art, jewelry, personal effects, and automobiles and their accessories and equipment, and all insurance policies relating to that property to my wife, _____, or if she predeceases me, then to my issue who survive me, in equal shares, per stirpes.

ARTICLE THREE

(Residual Estate)

All the rest, residue, and remainder of my estate, both real and personal, of every nature and wherever situated of which I may die seized or possessed, or to or in which I may be in any way entitled or have any interest including, without limitation, all property or interest in property acquired by me or to or in which I may become entitled after the execution of this will, and all property over which I shall have a power of appointment or disposal which I shall not have otherwise exercised, released or refused to exercise, I give and devise to the Trustees under a Trust Agreement dated _____, 19____, known as the TRUST, executed by me as Settlor and myself and my wife, _____, as Trustees, IN TRUST, to be held, administered and distributed in accordance with the terms, conditions, and provisions contained in that Trust Agreement as it may be amended from time to time. If that Trust is not then in existence or if, for any reason, this bequest is ineffective, I give and devise my entire residuary estate to my wife, _____, if she survives me, or if she predeceases me, then to my issue who survive me, in equal shares, per stirpes.

ARTICLE FOUR

(Simultaneous Death)

If my wife, _____, and I should die under such circumstances that it is doubtful which of us died first, it shall be presumed that my wife survived me.

ARTICLE FIVE

(Provisions for Minors)

If pursuant to this will any property (including tangible property) shall vest in absolute ownership in any minor before the minor reaches majority, my Executor then acting may, in his sole and absolute discretion, hold such vested property, or any part thereof, in a separate fund for the benefit of the minor and invest, reinvest, and collect the income thereof and distribute the principal and income therefrom as follows:

Until the minor reaches majority, to pay or apply to or for the benefit of the minor so much or all the net income and accumulated or undistributed income and principal thereof as he shall determine to be necessary for the education, support, maintenance, or health of the minor, and to accumulate, invest, and reinvest the balance thereof.

Upon the minor reaching majority, to pay to the minor the then principal and any accumulated or undistributed income.

If the minor dies before reaching majority, the then principal and any accumulated or undistributed income shall be paid to the minor's estate.

The authority conferred upon my Executor by this paragraph shall be construed only as a power during minority to manage property vested in a minor, and shall not operate to suspend the absolute ownership of such property by the minor, or to prevent the absolute vesting thereof in the minor.

ARTICLE SIX

(Payments to Custodian)

My Executor then acting, in making any payment or distribution hereunder to or for the benefit of any person, including minors, may make such payment or distribution directly to the person or minor, to a parent of any minor, to the guardian of any such person or minor, or to a person having the care or custody of any such person or minor, or to a custodian under a Uniform Gifts to Minors Act. My Executor shall not be required to see to the application or use of any payment or distribution so made; and the receipt of the person to whom payment has been paid or delivered shall constitute a complete release and discharge of my Executor.

ARTICLE SEVEN

(Appointment of Executor)

I nominate and appoint my wife, _____, Executrix of this will. If she fails or ceases to serve, I nominate and appoint as Successor co-Executors, my children, _____ and _____, or the survivor of them. My Executrix and any successor or appointees shall not be required to furnish bond or other security in any jurisdiction for the faithful performance of their duties. Any reference in this will to my Executors shall be deemed to refer to survivors and successors.

ARTICLE EIGHT

(Powers of Executor)

My Executrix and her successors and appointees shall have all of the powers and authority granted to or conferred upon Executors by law; and in addition to and not in limitation thereof they shall have the power and authority, unrestricted by statute or rules of law regulating investments by Executors, to hold, manage, invest, and reinvest the principal and income of my estate in any proportions, without distinction between principal and income, and in any property, real or personal, regardless where situated, including without limitation, any common trust fund or funds maintained by any bank or trust company, stocks - common or preferred, bonds notes, debentures, shares or interests in investment trusts, options, puts, calls, straddles, other securities, mortgages, other evidences of indebtedness or ownership, real property, improved and unimproved, regardless of whether the properties represent a large percentage of the total of my estate and any interests in any business which I may own at the time of my death, and regardless of whether any business is a sole proprietorship, partnership, joint venture, corporation or otherwise.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 19_____.

Testator

WE, the undersigned witnesses, do hereby certify and attest that the foregoing instrument was subscribed by the above-named testator, _____, in our presence, and that the said testator, at the time of making such subscription, declared the said instrument to be his last will and testament, and we thereupon, and the request of said testator, and in his presence and in the presence of each other, have signed our names hereto as attesting witnesses.

_____ residing at _____

_____ residing at _____

_____ residing at _____

AFFIDAVIT

STATE OF _____

CITY
or
TOWN _____

COUNTY OF _____

Personally appeared (1) _____ (2) _____

_____ (3) _____

who being duly sworn, depose and say that they attested the said will and they subscribed the same at the request and in the presence of the said testator and in the presence of each other, and the said testator signed said will in their presence and acknowledged that he had signed said will and declared the same to be his LAST WILL AND TESTAMENT, and deponents further state that at the time of the execution of said will the said testator appeared to be of lawful age and sound mind and memory and there was no evidence of undue influence. The deponents make this affidavit at the request of the testator.

(1) _____

(2) _____

(3) _____

Subscribed and sworn to before me this _____ day of _____, 19_____.

(Notary Seal)

Notary Public

Health Care Proxy

I, _____, (*name of principal*) hereby appoint _____ (*name, home address, and telephone number of agent*) as my health care agent to make any and all health care decisions for me, except to the extent I state otherwise.

This health care proxy shall take effect in the event I become unable to make my own health care decisions.

[NOTE: *Although not necessary, and neither encouraged nor discouraged, you may wish to state instructions or wishes, and limit your agent's authority. Unless your agent knows your wishes about artificial nutrition and hydration, your agent will not have authority to decide about artificial nutrition and hydration. If you choose to state instructions, wishes, or limits, please do so below.*]

I direct my agent to make health care decisions in accordance with my wishes and instructions as stated above or as otherwise known to him or her. I also direct my agent to abide by any limitations on his or her authority as stated above or as otherwise known to him or her.

In the event the person I appoint above is unable, unwilling or unavailable to act as my health care agent, I hereby appoint _____ (*name, home address and telephone number of alternate agent*) as my health care agent.

I understand that, unless I revoke it, this proxy will remain in effect indefinitely or until the date or occurrence of the condition I have stated below:

(*Please complete the following if you do NOT want this health care proxy to be in effect indefinitely*):

This proxy shall expire: (*Specify date or condition*) _____

Signature: _____

Address: _____

Date: _____

I declare that the person who signed or asked another to sign this document is personally known to me and appears to be of sound mind and acting willingly and free from duress. He or she signed (or asked another to sign for him or her) this document in my presence and that person signed in my presence. I am not the person appointed as agent by this document.

Witness: _____ Date: _____

Address: _____

Witness: _____ Date: _____

Address: _____

Notes

a. A health care proxy is a document which is used to designate an agent to make health care decisions for the principal in the event the principal becomes unable to make his own health care decisions. Unlike a living will, which provides specific instructions about the treatment an individual would want in certain circumstances that may arise in the future (and which may not envision all the medical circumstances that can possibly arise), a health care proxy authorizes someone to make health care decisions based on the patient's actual medical circumstances at the time the decision is made. For this reason, a health care proxy may be preferable to a living will.

Several states have laws authorizing the use of health care proxies. The health care proxy reproduced above is in a form suggested (but not required) by the laws of New York. In jurisdictions other than New York, local law should be consulted as to (1) whether recognition will be given to a health care proxy, and (2) if so, whether any modifications in the above form are required.

b. As the form indicates, the person appointed as agent or alternate agent should not be a witness to the health care proxy. In addition, anyone who is entitled to any part of the patient's estate (either under his will or under the laws of intestacy) should not be a witness.

Joint Tenancy – An Alternative to Will

Many people, particularly husbands and wives, hold some property as joint owners with right of survivorship, as tenants by the entirety, or – in the case of U.S. savings bonds – as co-owners. In all three cases, title to the entire property passes to the survivor without probate. The fact that joint tenancy avoids probate is often touted as an advantage over will and, depending upon the circumstances, you should use joint tenancy as an effective estate planning tool.

Right of Survivorship

A characteristic of both joint tenancy and tenancy by the entirety is the right of survivorship. In other words, the joint tenant who predeceases the other loses any ownership he had in the property. The surviving joint tenant automatically inherits the entire property. This is why joint tenancy is often referred to as a poor man's will.

Two of the most common forms of joint ownership of property are "joint tenancy" and "tenancy by the entirety." The tenancy by the entirety is limited to joint ownership by husband and wife and, in many states, only to their ownership of real estate. The joint tenancy permits co-ownership of both real estate and other types of property (stocks, bonds, etc.), between any two or more persons whether related or unrelated.

Illustration: Mr. and Mrs. Smith bought their home as tenants by the entirety. Although they are co-owners while both are alive, the moment one dies the survivor owns the whole house. The house is not subject to the terms of the deceased spouse's will at all. It belongs to the surviving spouse under the terms of tenancy by the entirety.

A joint tenant has the right to destroy the joint tenancy without the consent of his co-tenant. This is called the right of severance. He can do so by transferring his interest to someone else or by a legal procedure forcing a division or sale of the entire property (a so-called partition proceeding). A tenant by the entirety generally does not have this right of severance.

A joint tenant's right of severance permits him to destroy the survivorship right of his co-tenant without the co-tenant's consent. This generally can't be done by a tenant by the entirety. Tenancy by the entirety exists between husband and wife and is generally available only in certain states.

There is another form of owning a property between two or more individuals, called tenancy in common. A tenancy in common permits two or more persons to own undivided shares in real or personal property. It differs from joint tenancy and tenancy by the entirety in that there is no right of survivorship. A deceased co-owner's share passes to his beneficiaries or

heirs under the terms of a will or under laws of intestacy; it does not go to the surviving co-owner.

Since there is no right of survivorship, each co-tenant's share of the property is generally treated for tax purposes as though it were owned separately by him.

Most married couples take title to any newly-acquired property during the marriage as joint tenants without further thought. In their younger years, this form of ownership serves the purpose of sharing control and denoting trust between the married parties. Joint ownership signifies pooling of resources in the matrimony toward a happy union. Thought of estate planning and tax consequences is far removed from the minds of husband and wife at this point.

As a method of passing title to the family residence, a savings account, or a moderate amount of U.S. savings bonds, the joint ownership form of ownership is usually appropriate. But joint ownership can become inappropriate where substantial property is involved. Not only can joint ownership become expensive from the gift and estate tax viewpoint, but it also prevents the use of planning techniques that can provide for both tax savings and protection of beneficiaries, such as credit shelter and marital deduction trusts, disclaimers and powers of appointment.

Below we'll discuss advantages and disadvantages of joint ownership including its tax implications.

Advantages of Joint Ownership

- Joint ownership of bank accounts and personal residence between husband and wife is often a device of convenience, devoid of any thought of tax or estate planning consequences. More than anything else, it implies mutual confidence and faith in the marriage. It also gives the couple a sense of security.

Joint ownership offers convenience and security to two equal partners in a marriage. Joint bank accounts and jointly-owned savings bonds provide a safe way to hold assets which can be easily and quickly liquidated by either co-owner for emergency needs. Also, if one joint owner is hospitalized or out of the country for an extended time, his bills can be paid by the other joint owner out of the jointly-owned property.

- Since the surviving co-owner of jointly-owned property acquires the entire property on the death of the other co-owner, the property is not part of the deceased's estate subject to administration. This can yield a saving in executor's fees and other administration costs. As we said before, joint tenancy avoids probate which in itself is a significant advantage.

Joint ownership can be especially advantageous in the case of modest or moderate estates where for one reason or another the decedent may die without a will or with an invalid will, and leave minor children. Under state laws, shares in an intestate decedent's estate would pass to the minor children, even in the family residence and in bank accounts. Guardians might have to be appointed to represent the minors' interests or to hold the property passing to them. Not only would there be fees and expenses payable to the guardians but additional legal proceedings might often be necessary at an additional expense to the estate. All transactions involving the property of the minor could require judicial approval. Where property passes to the surviving spouse by way of joint tenancy, these expenses are avoided and the survivor has full control and discretion over the use of the family assets for the family's benefit.

- In cases where an estate owner owns property outside his state of residence, holding that property in joint tenancy can avoid the need to appoint ancillary administrators in the state where the property is located. The property would pass to the survivor upon satisfying state death tax rules.

Disadvantages of Joint Ownership

- With joint ownership, you lose the full control over the property that you normally enjoy as a sole owner. You may not be able to decide on the use, management or disposition of the property. Both parties must agree to a sale if title to the whole property is to pass to a third party. This may not be a problem between husband and wife while the marriage is harmonious, but the situation may change with separation or divorce, or intra-family disputes.

- A person who places property into joint ownership that carries survivorship rights gives up his or her right to dispose of any part of the property by will during the joint lives of both joint tenants. In some cases, depending on the form of co-ownership and state law, he may be able to sever the joint tenancy during his life by sale or judicial partition. But in other situations, a sale by one co-owner doesn't destroy the other spouse's right of survivorship.

The loss of power to dispose of the property by will can be serious in large estates. Where an estate is substantial, the estate owner may want to make provisions for his children separate and apart from the provisions he wishes to make for his spouse. He can do this by will but he can't do this where substantially all of his property is held in joint tenancy with his spouse.

If the bulk of the family assets are held in joint ownership, they will pass to the survivor outright. The survivor, as absolute owner of the property, may dissipate it, reinvest it unwisely, or make injudicious gifts. If the surviving spouse later remarries, some or all of the property may pass to his

or her second spouse to the exclusion of the children of the first marriage. It's possible, for example, that the surviving spouse may put all the property received as surviving co-owner into a new co-ownership with the spouse of the second marriage, or may leave all the property by will to such spouse.

If a spouse transfers property into joint ownership with his spouse, children, etc., or takes title to property in such form, he can normally continue to manage and care for the property during his lifetime. But on his death, his spouse or other co-owner will obtain the property outright. This can present problems of management, including conservation of the property, if the spouse or other surviving co-owner has little or no experience in managing real estate, handling investments, etc.

As you can see from the nontax disadvantages of joint ownership as a means of passing title to property at death, will is clearly a superior means of disposition in many situations.

Advantages of a Will

But even when there are good reasons to hold property in joint ownership, effective estate planning requires both joint owners have wills for these reasons:

(1) It is difficult to put all property into joint ownership. Some items, such as tangible personal property, don't lend themselves to joint ownership; other items are often overlooked. It is important to have a will so that these items pass in a manner desired by the estate owner rather than by intestacy.

(2) Provision must be made for the transmission of the property on the death of the surviving co-owner. A husband and wife may want all their property to go to the survivor, in the knowledge that the survivor will maintain and educate the children of the marriage. But on the death of the survivor, especially where minors are involved, the will of the survivor must provide for the maintenance, etc. of these minors. Since the parties do not know who will die first, both need wills.

(3) If the joint owners die simultaneously or under circumstances making it impossible to determine who died first, the property will pass under state law. Most states have adopted the Uniform Simultaneous Death Act. Under this Act, where joint owners die simultaneously, the joint property is distributed one-half as if one had survived and one-half as if the other had survived. Each joint tenant should have a will so that the share of each person will go as each desires it to go.

(4) If estate taxes or other debts are due, there may be no fund for their payment where the estate subject to administration is inadequate. A portion of the estate owner's assets should be made available for these purposes by

keeping it in his own name. A will should give the executor adequate powers to deal with these matters. A will or a trust allows a more desirable, flexible and equitable distribution of an estate. For instance, you can award fractional shares to beneficiaries, donate property to charitable causes, or pass certain assets to distant relatives or friends using specific bequest clauses.

If the person designated as joint owner predeceases the estate owner, the property belongs solely to the estate owner as survivor. If the estate owner has no will, the property will pass by intestacy unless the estate owner reregisters the property and names his next intended beneficiary as joint owner. The same problem exists if a designated beneficiary for life insurance or employee plan benefits predeceases the insured (or employee), unless a successor beneficiary was named.

Where husband and wife are the sole co-owners of property held as tenants by the entirety or as joint tenants with right of survivorship, joint interests may be created or terminated completely free of gift tax and without using up any part of either spouse's unified credit since any resulting gift qualifies for the unlimited gift tax marital deduction. On the death of the first spouse to die, the property will pass to the survivor as sole owner completely free of estate tax in the first spouse's estate. This is because although 50 percent of the value of the property is included in the gross estate of the first spouse to die, that 50 percent qualifies for the marital deduction by reason of passing outright to the surviving spouse. If the surviving spouse still owns the property at his or her death, it will be included in full in the estate of the surviving spouse.

These rules do not create any special estate tax advantages in holding property jointly over holding it in separate ownership of one spouse and leaving it to the survivor by will. In either case, the entire property will be subject to estate tax in only the surviving spouse's estate and there will be no gift tax or use of the unified credit against gift tax. Therefore, planning on whether property should be held jointly or separately by one spouse, from a purely estate and gift tax point of view, can be determined mainly by the non-tax advantages and disadvantages of holding property jointly.

Tax Consequences of Joint Ownership

Some tax problems caused by joint and other special forms of ownership are:

(1) When the joint tenants are husband and wife, one-half the value of the property will be included in the estate of the first spouse to die, and only that half will receive a basis equal to its value in the decedent spouse's estate.

Under these rules, there is, for spouses, an income tax disadvantage to holding property jointly over holding it separately where the spouse holding

separate ownership is the first to die. If spouses own property jointly and the property appreciates in value between the date of acquisition and the date of death of the first spouse to die, the surviving spouse gets a stepped-up basis for only the 50 percent portion of the property which is required to be included in the deceased spouse's estate. The income tax basis of the other 50 percent of the property will be the surviving spouse's original basis, which would be the amount of consideration furnished by that spouse when the property was acquired, or, if no consideration was furnished, a basis reflecting the gift made when title was taken in or transferred to joint ownership. This "carryover" basis is not stepped-up to fair market value on the date of the deceased spouse's death.

However, if the property is held separately by one spouse, rather than jointly by both, and the spouse holding separate ownership dies first, the surviving spouse will receive a stepped-up basis for the entire property, not just 50 percent as in the case of joint ownership. The possible income tax advantage of holding property separately, rather than jointly, is something of a gamble, since it is not usually possible to determine in advance which spouse will die first. If the spouse who has no ownership interest in property separately owned by the other spouse dies first, no part of the property would receive a stepped-up basis as a result of the deceased spouse's death. However, if the property is jointly-owned, there would be a step-up in basis for 50 percent of the property regardless of which spouse dies first.

In certain estate planning situations there may be a probability that one spouse will predecease the other and, depending on the strength of the probability, a decision to have property owned separately by that spouse, rather than jointly by both, could accordingly be made.

(2) The value of such property may be taxed in the estates of *both* joint tenants. This latter problem occurs when the joint tenants are not spouses. Thus, if a brother and sister or parent and child hold property jointly, the entire value of such property will be includible in the estate of the first to die (unless the survivor can prove his contribution), and then in the estate of the survivor if he still owns the property at his death. The only partial relief might be the credit for estate tax on prior transfers which is available only if the survivor dies within ten years after the death of the first joint tenant to die.

SOURCE: Estate Planning and Taxation Coordinator

Living Trust: Cure for the Agony of Probate You Can Keep It All in the Family

Vijay Fadia
Los Angeles

Using a little foresight, let's say, you've written a will to distribute your assets to your children after your death and now you're feeling pretty secure that you've safeguarded your children's inheritance. But this may be a false peace of mind. You may be leaving for your children months, even years, of agony in probate court, whopping attorney's fees, hassles with court officials and emotional anxiety of waiting for their inheritances. Surprisingly, there's a simple solution to this problem and a growing number of people are taking advantage of it.

Revocable Living Trust

Like many Americans, Jane learned the value of a revocable living trust firsthand, but paid a heavy price for it. When her father died four years ago, he left his business, family residence, a vacation home in Arizona and other assets to her. Fortunately, he had left a will and at first it seemed everything would go smoothly. But the problems started cropping up almost immediately. Although Jane, an accountant by profession, was named the executor and sole beneficiary of the estate, she had to hire an attorney to probate the will. She was fairly familiar with her father's financial affairs but, when it came to probate, there was very little she could do to expedite the process. It seemed like the court and attorneys were getting involved in every decision. Finally, the probate was over more than two years later but took a heavy financial and emotional toll on Jane. The once-thriving business was pretty much ruined.

After this experience, it did not take much to persuade Jane and her husband to set up a revocable living trust. All of their assets were transferred to the trust, with both of them acting as trustees. Because the trust is revocable, they can change its terms, or even cancel it at any time. When one of them dies, the surviving spouse will continue to act as trustee and control and

manage their assets. In the event of incapacity or incompetence, the living trust will allow them to avoid lengthy and costly guardianship and conservatorship court proceedings. As Jane put it, "I want everything to be as easy as possible for my kids if something happened to me. I wouldn't want them to go through what I did with my father's estate."

Flexibility

The beauty of a revocable living trust is its flexibility. In setting up the trust, you transfer legal ownership of the assets to the trust, but you name yourself as trustee of the trust. Thus, although you've relinquished the nominal ownership of the assets, you continue to be the beneficial owner; you can manage, sell, mortgage or give away your assets as you please and the trust won't interfere. If at some point in time you wish to change terms of the trust, including designation of beneficiaries, or even revoke it in entirety, you can do so.

Advantages Over Will

Many estate planners swear by living trusts; their advantages over wills are many. The problem with a will is that it must be proved valid in probate court. To probate a will, you'll definitely need to hire an attorney and attorney's fees can run into thousands of dollars. There may be executor's commissions and other court costs.

California's probate fees - set by law - are about average among states. For an estate of \$500,000 (by no means a small or uncommon estate where home prices start around \$200,000,) the cost of probate in terms of attorney's fees and executor's commissions would range around \$22,300. This is a big chunk out of your children's inheritance.

Worse than the financial blow, probate can exact an emotional toll on the surviving family. Your heirs may have to wait several months and sometimes years to collect their inheritances, depending upon the efficiency

of the executor, attorney and probate court. Delays of eighteen months to two years are not at all unusual.

Probate records are public records and are available to all kinds of salespeople, scrupulous or otherwise. Many a widow has been persuaded to make unwise or unsuitable investments under pressure from fast-talking hucksters.

Living trusts, on the other hand, require no court proceedings; a successor trustee (who may also be a beneficiary) simply distributes the assets according to the trust's instructions and dissolves the trust. "The process is much quicker, cheaper and more private than settling a will, and it may save on taxes, too," according to a well-known authority on trusts in Atlanta.

Few Disadvantages

According to most estate planners, revocable living trusts have few disadvantages. Inertia may be the biggest foe in most cases. Most trust instruments are relatively simple to prepare, and you'd need to formally transfer the title of various assets to the trust. This requires some paperwork and you'd need to contact your banks, brokers, insurance agents, etc. In most cases, they are familiar with revocable living trusts and you'd get excellent cooperation from them. Once this paperwork is completed, trust will not affect the way in which you control or manage your various assets.

Along these lines, your setting up a revocable living trust will have no effect on your income tax situation. If you act as trustee of your own trust, as is normally the case, you wouldn't need a separate taxpayer identification number. You would continue to report all trust income, losses and deductions on your individual income tax return under your own social security number.

Can Save Taxes, Too

Living trusts can, with proper planning, save on federal estate taxes. If a couple has a so-called "A-B" living trust, with separate trusts for husband and wife, they can pass on up to \$1.2 million tax-free to their children, trust attorneys say. Under this method, each trust can make the maximum utilization of the \$600,000 federal estate tax exemption. The surviving spouse can draw the trust income for life, and also have the right to invade the principal of the other trust, if there be a need. When the second spouse dies, both trusts go to the children. Without the A-B plan, the children would pay \$235,000 in federal taxes on the \$1.2 million estate, says a tax attorney.

Trusts Hard to Contest

When a will is probated, the executor of the estate is generally required to notify all potential heirs - whether they are named in the will as beneficiaries or not - that the will is in probate. A disgruntled heir, rightfully or wrongfully denied his share of the estate, can rock the boat at this time by alleging undue influence or lack of mental capacity. In many instances, he may not even need to hire an attorney to start such a will contest. Facing the prospect of a long, drawn-out court battle, oftentimes the executor or the other heirs will settle with the disgruntled heir by giving in to the "blackmail."

This is exactly what happened when J. Seward Johnson, 87, of Johnson and Johnson fortune died leaving the entire estate worth \$500 million to his third wife, Basia, then 46. Johnson's six children, disinherited by their father, contested the will. In a settlement, the children and a charity got \$169 million. The wife got to keep the remaining fortune and the attorneys reaped a \$24 million bonanza.

Living trusts, on the other hand, are extremely hard to penetrate. A living trust is set up during your lifetime and, presumably, you've been administering the trust for several years. It would be difficult to challenge your competency to set up the trust under these circumstances.

Upon your death, the trust estate is distributed to the named beneficiaries almost immediately, without the intervention of a probate court. Anyone wishing to contest the trust would have to sue each and

every beneficiary - after they've received the assets, ruling out the possibility of blackmail.

Remember, the trust is an entirely private affair and no one, other than the beneficiaries, needs to know the contents of the instrument. This precludes disgruntled heirs from using the threat of a court battle to tie up the estate in years of litigation.

Joint Tenancy Not a Solution

Most married couples (and often, a parent and a child) hold title to a property in joint tenancy with the right of survivorship. Upon the death of one joint tenant, the surviving joint tenant inherits the asset without going through probate.

So far so good. But when the second spouse dies, unless he or she has placed the property in joint tenancy with someone else, that property will be probated. A living trust is one sure way to avoid that problem.

Most estate planners advise against joint tenancy for a variety of reasons. For some persons, in certain situations, joint tenancy may be a wise decision. However, in a vast majority of cases, joint tenancy spells major disadvantages.

For instance, say you own your home and car in joint tenancy with your son. If the son gets into an accident, and the injured person files a lawsuit, you'd be named a defendant along with your son. If an adverse judgment is rendered, your personal assets are at risk.

Or take this scenario. You and your wife own all assets in joint tenancy with a view to avoid probate when one of you dies. But your wife has to be put into a nursing home due to Alzheimer's disease. Now you would need to go to probate court before being able to do anything with the jointly-owned assets. In this case, joint tenancy actually turned out to be a curse.

Guardianship

Living trusts are well-suited to handle just such a contingency. A growing number of Americans are putting their assets into living trust because they want to avoid being placed under a court-appointed guardian if they become physically or mentally disabled and are unable to manage their affairs. "With a living trust, you can designate the person (generally the successor trustee) who'll take over your affairs in the event you become incompetent," says an estate

planner who advises senior citizens on a regular basis. This avoids the cost and public embarrassment of a court conservatorship or guardianship proceeding.

Why Aren't Living Trusts Better Known?

If living trusts are such a wonderful device for passing on your inheritance to your children, why aren't they better known?

Well, the truth is they are getting increasingly more popular, more so in certain parts of the country than others. You'll regularly find articles on living trusts in most major personal finance or money magazines and also in newspaper columns. These articles universally laud the benefits of living trusts against wills, or the scarier option of dying without a will.

This does not mean that every attorney in your town knows about living trusts, or is willing to help you set up a living trust. Many simply do not know enough about living trusts, and there are some who would rather you didn't know anything about them. These attorneys derive a substantial portion of their income from our probate system and they are not about to kill the "cash-cow." These attorneys are building a "will file"; each will they write, they hope, will ripen into a probate estate.

Then there are some attorneys who've seen the writing on the wall and have decided to join the bandwagon. They have discovered that helping people set up a living trust can be just as lucrative as probating an estate, especially if you can charge \$595, \$895 or \$1,500 to set up a simple revocable living trust. They advertise free seminars in local newspapers and sign up clients just for such a service.

While doing it, they can portray themselves as heroes. A law firm in Southern California, in its free - seminar advertisement for a living trust, touts itself as "defying the system by placing principle above profit." It is "willing to forego millions of dollars in probate fees in favor of preparing a one-time, foolproof, affordable plan." This just proves the point I've been trying to make here: Probate is a multi-million dollar business and, like the ad says, "you should avoid it like the plague."

Mr. Fadia can be reached at 21707 Hawthorne Blvd., Suite 204, Torrance, CA 90503.

Titles From Homestead Publishing Company

- **The Living Trust Kit**
 - *also available in software version*
- **Lawsuit and Asset Protection Kit**
- **Estate Planning for the 1990s: A Practical Guide to Wills, Trusts, Probate and Death Taxes for Everyone**
- **How to Protect Your Assets from the Catastrophic Costs of Nursing Home Care**
- **You and Your Will: A Do-It-Yourself Manual**
 - *also available in software version*
- **Money Manager - Windows Software for PC**
- **The Durable Power of Attorney**
- **The Legal Forms Kit**
 - *also available in software version*
- **How to Cut Your Mortgage in Half**
 - *also available in software version*
- **How to Deal with the IRS**
- **Facts About AIDS**
- **Stress Management**
- **Substance Abuse**
- **Child Abuse**
- **Teach Your Baby to Swim – video**

YOU AND YOUR WILL

Nearly 4 out of 10 Americans do not have a will. Consequences could be disastrous.

Did you know that if you die without a will, your property could go to someone you don't even know?

Every state has laws that determine who would inherit your estate in the event you failed to write a will. Division of your property is done according to a mathematical formula, which may leave your heirs short-changed.

You can avoid all this simply by writing a will. And you can do it yourself. This book has all-inclusive formal will forms and step-by-step instructions. You need to do nothing more than fill in the blank spaces.

You'll be able to avoid executor's costs (substantial by themselves) and stave off will contests. You'll be able to appoint a guardian for your minor children. In fact, with the help of this book you can even customize the will to fit your own circumstances.

Whether you own a lot or a little, there's no reason to put off making a will. You'll save whopping attorney's fees and you'll have the peace of mind that your family has been taken care of.

**HOMESTEAD PUBLISHING COMPANY
23844 Hawthorne Blvd., Suite 200
Torrance, CA 90505**