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Chapter 1: **DON'T BE CAUGHT WITHOUT A WILL!**

This section answers the questions:

- What is a *will* and why is it important?
- What is a *beneficiary*?
- What are the qualifications needed to prepare a will?
- What is an *estate* and what is the significance of estate planning?

What's a Valid Will?

According to *Webster's Dictionary*, a ***will*** is a legal statement of a person's wishes concerning the disposal his or her property after their death. Individuals who inherit your property are considered your ***beneficiaries***.

A valid will not only ensures your last wishes are carried out; it is protected by state law and can be modified as often as you see fit. This formal and legally enforceable document affords you an opportunity to express a multitude of emotions including: affection, appreciation, disappointment, even anger.

HINT: A will is a powerful document. It has the ability to motivate someone to action, reconciliation, reprisal, as well as to show someone appreciation for their loyalty, friendship and compassion.

When it comes to estate planning, a will, while simple, is a vital document. It is the one item that clarifies what you want to happen with the things you'll leave behind.

What's the Importance of a Will?

Without a will, you have no control over how (or to whom) your property is divided upon your death. Should you die before drafting a will, your property will be distributed according to the laws of your state. Unfortunately, this "state will" may be the opposite of what you had in mind. For instance, the law may demand that your property be given to distant relatives with whom you shared nothing but indifference and animosity, instead of to a close personal friend of 25 years whom you would choose to inherit your property.

STOP! It's quite likely that all or part of your estate may be transferred to the state instead of your loved ones if you neglect to draft a will.

Even if you think you've nothing of value, a will can protect a future inheritance, an accident claim or a wrongful death award. Simply put, a valid lets *you decide* who your beneficiaries will be. It enables you to identify who you want to inherit your property. It affords you the opportunity to select your ***personal representative*** to administer your estate. Perhaps more importantly, it allows you to name a guardian to provide and care for your minor children.

HINT: In fact, you can even use your will to forgive debts as well as to pay debts (including taxes) by designating what property is to be used to pay those debts.

What Are the Requirements for Preparing a Will?

Every adult should have a valid will. To prepare a will, you must meet the following requirements

1) **You must be of legal age.** The legal age in most states is 18, with the following exceptions: In Alabama, you must be 19 to bequeath real estate, and 18 to bequeath personal property. In Georgia, you can be 14, so long as you are married and, therefore, emancipated. In Iowa and New Hampshire you can be a minor so long as you are married. In Idaho you can make a will if you're an emancipated minor. And in Indiana and Oregon any member of the armed forces or maritime service is eligible to prepare a will.

2) **You must be of sound mind** when you prepare and sign the will. Quite simply, "sound mind" means you understand what you are giving away and to whom you are giving it. Your will must also be prepared free from implied or actual threats, pressure or trickery. Mental illness or ongoing psychiatric care does not automatically preclude you from preparing a valid will, nor will absentmindedness or forgetfulness. If you have a history of serious mental disorders, you are strongly advised to consult with a qualified medical practitioner prior to preparing your will. This can help establish your competency, which may be useful if the will is ever contested.

HINT: Your will must also be prepared free of undue influence threats, pressure, trickery or other fraud. A vast majority of undue influence cases are filed against attorneys, named as beneficiaries in wills they drafted.

It's important to mention, that it's not necessary to be a citizen of the United States to make a will. However, it is important to prepare your will in the state where you reside. This facilitates a much easier, smoother transfer of your personal property upon your death. And so long as your will is valid in the state where it was drafter, it is valid in all other states.

HINT: As you prepare your estate and your will, you must designate your—your legal residence. If you live one more than two states, your legal residence is usually where you are registered to vote, pay your taxes and have registered your car.

Last Will & Estate Planning

"Death and taxes are inevitable; at least death doesn't get worse every year..." It seems the unknown author was right. Taxes can become a significant issue for forced to settle an estate after a loved one has died. Short of a will, there's no way to guarantee that your estate is distributed to,

and in the fashion, you desire it. Without careful consideration and planning, your beneficiaries may encounter debilitating tax or property ownership issues. Therefore, it's prudent and considerate get your estate in order before it's too late. It is the single most important thing you can do to prepare for and provide after your death. With a few additional steps, you can help guarantee a more comfortable future for your loved ones, family and friends:

>> **KEY TERM**(S): An *estate* consists of all the assets, including joint assets, and liabilities you leave behind upon your death.

- Create a *Living Trust.* A helpful way to avoid issues with or complications from probate, living trusts enable you to transfer your estate during your life to the trust of your beneficiaries, without court involvement. Upon your death, the person you appoint to handle the trust, can transfer ownership to the beneficiaries as you've outlined in your trust
- Create a *Living Will & Power of Attorney for Healthcare*. These legal documents clearly express your wishes regarding the type and extent of medical treatment and life-prolonging procedures you would permit in the event that disability leave you unable to express them. This step is important as it helps ease the burden on your loved ones who may struggle to determine how, if it all to intervene on your behalf.
- Organize, review and revise as needed your insurance and retirement benefits. Make certain your golden years are secure and your loved ones are cared for.
- Solicit tax advice from financial experts to make certain your loved ones and your estate are not burdened or overwhelmed with estate and death taxes (see appendix for financial resources).

As you'll undoubtedly discover, even the simplest estate planning efforts will provide you and your loved ones enormous peace-of-mind. Refer to the definitions, resources, forms, and related information in this guide to help you start as you begin your efforts to plan for tomorrow.

Chapter 2: **AN ESTATE WITHOUT A WILL**

This section answers the questions:

- What is *intestate* and why is it important to have a valid will?
- What is the difference between an heir and a beneficiary?
- What does *next of kin* mean?
- What is *intestate succession*?
- What happens to your property if you have no valid will?

Dreading the discussion of or preparation for death, people often delay preparing their will. Some feel their estates aren't significant enough to warrant it. Others feel that they don't have the time to prepare this vital document. Unfortunately they're not alone

HINT: Pablo Picasso died without a will, leaving behind one of the most value if not the most complicated estates ever to be settled. Boasting 1,885 paintings, 1,228 sculptures, 7,089 drawings, 30,000 prints, 150 sketchbooks, and 3,222 ceramic works as well as homes, gold, cash and bonds, Picasso's estate was settled at a cost of over $30 million.

Understanding Intestate

If a person dies without have prepared a valid will, that individual is said to have died “intestate.”

Laws that protect and govern the division of property in an intestate estate are known as the "*Laws of Intestate Succession*." These state laws apply to all estates that are not governed by wills. These laws identify your beneficiaries, administrator and guardian of your children.

If you are married and die intestate, your surviving spouse will automatically inherit a specific percentage of your estate. This percentage varies from state-to-state, depending upon your surviving relatives. Surviving parents, children, grandchildren or other descendants will affect how your estate’s is divided. Once again, without a valid will, you will have absolutely no say in how and to whom your estate is distributed.

>> **KEY TERM**(S): *Heir vs. beneficiary.* While the words may seem be used interchangeably there is a difference. Technically, an "heir" is a person legally due to inherit with or without a will (generally blood relations) while a "beneficiary" inherits through a will or other document, such as an insurance policy.

For example, Jim and Nancy had a sizeable, jointly held estate in Pennsylvania and no children together. Unfortunately, neither recognized the significance of, nor made the time for, preparing a will. Sadly, they died within days of each other. The Pennsylvania laws of intestacy distributed all of the jointly held property to Nancy’s brother, whom Jim hated. Unfortunately, both of Jim’s from a previous marriage received none of his jointly held assets.

>> **KEY TERM**(S): *Next of Kin* is not the same as the term "heirs." "Next of kin" refers to those are related by blood, while "heirs" refers to anyone entitled to inherit property from the deceased, under state law. Thus, a spouse is an heir but not next of kin.

Making Sense of Intestate Succession

So what happens if you have no will? How do you determine who inherits what? Drafted and regulated by each state, the Laws of Intestate Succession, determine who is to inherit. The order of which heirs receive the estate of someone who has died without a will is referred to as intestate succession.

Numerous states have adopted the "Civil Law method": Under this method (see diagram below), each person's relationship to the decedent (the deceased) is assigned a numerical value. Person's with the lowest number, nearest the deceased, are the first in line to inherit.

LEVELS OF SUCCESSION:

- Level 1: Children, Parents
- Level 2: Grandchildren, Brothers & Sisters, Grandparents
- Level 3: Great-grandchildren, Nieces & Nephews, Uncles & Aunts, Great-grandparents
- Level 4: Grand-nieces & -nephews, First Cousins, Great Aunts & Uncles
- Level 5: Great-grand nieces & nephews, 1st Cousins' Children, Parents' 1st Cousins
- Level 6: 1st Cousins' Grandchildren, 2nd Cousins
- Level 7: 1st Cousins' Great-grandchildren, 2nd Cousins' Children
- Level 8: 2nd Cousins' Grandchildren
- Level 9: 2nd Cousins' Great-grandchildren

What About Your Property?

Personal Property Explained

If there is no will, the law of the state where the deceased lived determines how his or her personal property will be distributed. Personal property that can be touched, with the exception of real estate is usually called tangible property. Examples of tangible property include: automobiles, computers, books, furniture, silverware, tools, coin and stamp collections, clothing and other personal effects.

HINT: There are three types of property: *Tangible* (property you can touch and use in its physical form), *Intangible* (property that may be represented by paper such as stocks, bonds, copyrights or patents) and *Real* (real estate property and its buildings).

>> **KEY TERM**(S): When there is no will, and there is no surviving spouse or identifiable kin, estate property is said to ***escheat***, or pass to the state. In some states, real estates passes to the state in which it is located (even if the deceased did not live there) while personal property passes to the state where the deceased lived.

Examples of intangible property include: checks, drafts, notes stocks, bonds, patents, and copyrights. They are considered intangible, because they represent ownership of something else. For example, a check is considered intangible because it represents your money, but it is not your money itself.

Real Property Explained

The law of the state where the real estate is located determines how your real property will be distributed if there is no will. Because state laws vary widely, it is possible for your real estate, located within your state, to be transferred differently from your real estate that is outside of your state. Without a valid will, the transfer of your real property may be subject to untimely delays and additional expenses.

Chapter 3: **DETERMINING WHICH WILL IS RIGHT FOR YOU**

This section answers the questions:

- What is *probate*?
- What is a *Holographic Will* and which states accept it?
- What is a *Nuncupative Will*?
- What is a *Joint Will* and why isn't it recommended?
- What is a *Mutual Will*?
- What is an *Unconditional Will*?
- Under what circumstances is videotaping recommended?
- Does a Computer Will have any restrictions?
- What is the purpose of a Living Will?

Through the years, people have utilized various types of wills. Like most things, time has found many of these documents invalid and obsolete. For instance, as in the process of *probate* (a procedure which determines if a will is valid), the courts found too many problems associated with oral wills and unwitnessed wills. To reduce complications and make it easier to prepare a valid will, the courts have established specific requirements. In fact, numerous documents and pre-printed forms are available for you to help navigate around some of the pitfalls as outlined in some of the wills below:

What is a Holographic Will?

A *holographic will* is an unwitnessed, handwritten will. It must be signed, dated and written in its entirely in the handwriting of the person leaving the will (or *testator*).

HINT: The Uniform Probate code (UPC), first drafted in 1969, provides a model by which individual states can update or modernize their probate laws. States have varying views of the UPC. Some have adopted it in its entirety; some have adopted select portions, while other states have modified it. States aren't the only ones to have made changes to probate laws; the UPC itself has been amended on more than one occasion.

Holographic wills are valid in the following states:

- Alaska
- Arizona
- California
- Idaho
- Kentucky
- Louisiana
- Maine
- Michigan
- Mississippi
- Montana
- Nevada
- New York (recognizes holographic wills made by members of the armed forces (including merchant marines) during armed conflict.

- North Dakota
- Oklahoma
- Pennsylvania
- Puerto Rico
- South Dakota
- Texas
- Utah
- Virginia
- West Virginia
- Wisconsin
- Wyoming

Problems with and complications from holographic wills are not unusual. For starters, holographic wills may overlook certain standard provisions like those outlines in most professionally prepared and pre-printed wills, such as statutory wills (state-authorized will forms). As such, a holographic will is vulnerable to encountering problems in probate. Furthermore, any written but unwitnessed will is considered unreliable and usually does not stand up in court. So it's not surprising that more people are turning to formal, pre-printed legal forms as more reliable option to holographic wills.

What is a Nuncupative Will?

A *nuncupative will* is an oral will, or unwritten will. While this type of will is usually made before witnesses, it is valid only when the testator is in immediate peril of dying (sometimes called a Last Sickness Will). In most cases, you cannot leave property valued at more than $1,000 in a nuncupative will. Nuncupative wills made by those active in the armed forces are recognized by many states.

STOP! Nuncupative are not recognized in every state, and those that do usually have numerous restrictions.

What is a Joint Will?

A *joint will* is the single will of two or more testators, such as a husband and wife. Since it is not unheard of that a couple separate, lose their copy of the will or destroy the will without the other's knowledge or consent, it is strongly recommended that each testator has a separate will even if the wills are identical.

STOP! While it is legal, there are a number of compelling reasons not to have a joint, mutual or reciprocal will. For example, after a spouse dies, the joint will cannot be changed. And, even if the surviving spouse creates a new, separate will, bequests and beneficiaries from the joint will may still be upheld by a court of law.

What is A Mutual Will?

A *mutual will* (also called a *reciprocal will*) is the type of will where two identical but separate wills--prepared by two different testators--each name the other as beneficiary. Both wills contain an agreement that neither testator will make any changes to their will after the death of the other. While used interchangeably, states tend to define the terms “mutual” and “reciprocal” differently. To avoid confusion, define each term and condition of your will as clearly as possible.

What is a Conditional Will?

A *conditional will* depends upon a specific situation or event. If the event doesn't happen, then the will is void. For example, a person who wants his will to be effective only if he dies a natural death would use a conditional will.

What is an Audiotaped or Videotaped Will?

Videotaped or audiotaped wills are not considered valid in any state. However, videotaping is one method of establishing the identity and alertness of the testator. If you wish to include a video tape, accompany it with a formal written will.

What is a Computer Wills?

A *computer will* is created on the computer, either from scratch or using specialized software, and must be printed it out and signed before witnesses to be considered valid.

What is a Living Will?

Unlike testamentary wills, those that dispose of your property after death, a *living will* indicates at what point you wish to terminate medical efforts to prolong your life.

Chapter 4: **YOUR LAST WILL & TESTAMENT**

This section answers the questions:

- How do you determine if a will is valid?
- What's an *Opening Clause*?
- What's a *Personal Representative Clause*?
- What's a *Guardian Clause*?
- What's a *Bequest Clause*?
- What's a *Signature Clause*?
- How many witness does a will require?
- What's an *Acknowledgement Clause*?

How to Determine if a Will is Valid

When determining if a will is valid, the court looks for 3 things:

1) **The will must be in writing.** While some states recognize an oral will, they do so under very limited conditions. An example of one condition is an oral will made on a death bed or by a military soldier. Conversely, a written will is recognized by every state.

2) **The will must be signed by the testator.** A testator can instruct someone else to sign for them so long as the person signs the will in the testator's presence. And since the law will accept any mark that you want to use as your signature, you do not have to know how to write your name in order to sign your will.

3) **The will must be attested to.** Simply put, this means that at least two or three adult witnesses, who will not benefit from your estate, are willing to sign your will. Like you, these witnesses must be of sound mind. They must sign in the presence of the testator, a notary, and each other, and must also include their addresses. Not only are your beneficiaries precluded from being your witness, so too are your personal representative, an appointed guardian, your spouse, or any other relative. Because of the significance of the document, it is important that your witnesses must be of legal age, understand what they are signing and live locally in case a question should arise concerning the validity of the will. Make sure that your will is notarized, to establish the fact and identity of the persons who signed the will.

STOP! To avoid issues administrating your estate, use the name on your birth certificate on your will.

An Overview of Your Will

Take a few minutes to review the Last Will & Testament form in the back of this guide. Become familiar with the following elements:

OPENING CLAUSE

Starting with the terms "BE IT KNOWN," the purpose of the opening clause is to identify you as the person making the will, to identify your permanent address, to declare that you were of sound

mind when the will was made, to declare this document to be your last will and testament, and to revoke and cancel any prior wills you might have made.

PERSONAL REPRESENTATIVE CLAUSE

Beginning with the words “PERSONAL REPRESENTATIVE," the personal representative clause names the personal representative that you have chosen to administer or manage your estate upon your death death. In the event that your personal representative has died or is unavailable, include the name of the alternate.

In this paragraph, you are instructing your personal representative to pay any debts that you legally owe as well as funeral expenses from the money in your estate. You are instructing the court that it is not necessary for your personal representative to post a bond, and you are stating that you don't an expert called in to estimate the value of your estate unless this practice is required by law.

GUARDIAN CLAUSE

Starting with the word “GUARDIAN,” the guardian clause names the guardian you have selected for your minor children. It is the guardian's responsibility to take care of the minor children in the event that neither of the natural parents is living. Some of the duties of the guardian include:

a) Invest and manage the minor’s assets
b) Pay and file the minor’s taxes
c) Manage and possess the minor’s property
d) Provide regular accounts to the probate court
e) Use the funds to benefit the minor
f) Distribute the remaining funds when he or she reaches adulthood

It's customary for you to appoint your spouse as guardian, but in the event that your spouse dies before you do or you both die at the same time, it's imperative that you designate an alternate. When determining who can offer the best care for your child, keep in mind the guardian's age, proximity and willingness. Your child's grandparents, while undeniably loving and devoted may not be the best choice to provide long term care and financial support.

In addition to providing your child's care, comfort and education, the guardian is also responsible for your child’s property. Therefore, if you are leaving property to a minor, that property must be entrusted to the guardian. While you are considering the finances needed to support your child, you might also consider—if applicable—compensating the guardian. The guardian, like your personal representative, will be asked to post a bond with the court as an expression of good faith, unless your will states otherwise.

BEQUESTS CLAUSE

Beginning with the word “BEQUEST,” (or “legacies” or “devises”), the bequests clause (also known as the dispositive clause) is the part of the will in which you leave or dispose your property to your beneficiaries. It is imperative that are clear about your wishes by identifying the specific item that you are leaving each person.

HINT: If you are physically unable to do so yourself, you can request another person sign for you (in your and the witness' presence). Likewise, your will must then state that another person is signing for you.

This guide provides extra pages for you to make your bequests. Be sure to sign and number each page. Noting the number at the bottom of each page and indicating the total number of pages in your will, will help prevent anyone from adding or deleting unauthorized pages.

SIGNATURE CLAUSE

Beginning with the words "IN WITNESS WHEREOF," this signature clause introduces the testator's signature. This signature establishes the end of the will and the date on which it was signed or completed. It's important that this signature reflect the same name included in the opening clause

>> **KEY TERM**(S): A *signature* is defined as any mark the person making the will intends to be his or her signature.

WITNESS CLAUSE

Starting with the word "WITNESSED," the witness clause, comes after the testator's signature but before the witnesses' signatures. In this clause, the witnesses are simply stating that on this date the testator and witnesses signed the will in each other's presence and in the presence of the notary public.

Make certain your witnesses actually see you sign your will. Dennis, his witnesses, and the notary were gathered in Dennis's dining room to sign his will. However, Dennis had forgotten his glasses so he went into his bedroom to put them on and sign his will. Because neither the notary nor the witnesses actually saw Dennis's hand sign the will, the court declared the will to be invalid.

HINT: How many witnesses does the law require? Every state except Vermont and Louisiana require two witness signatures on the will--Vermont and Louisiana each require three. And, like the testator, the witnesses must be at least 18 years of age and of sound mind.

It is important that the witness provide their current addresses as well as their signature so that they can be contacted if the will is in dispute.

ACKNOWLEDGMENT CLAUSE

The acknowledgment clause, also known as the "self-proving clause," is where the testator and witnesses sign their names in presence of each other and a notary public.

This clause acts as an affidavit, so that when a will is signed and notarized, the witnesses do not have to appear in court. All states except Maryland, Ohio, Vermont, and the District of Columbia recognize this option or use an affidavit that is not part of the will itself. In mentioned above, the personal representative must prove the will in court.

HINT: To help distinguish an original from a photocopy, you should sign your will and other important estate planning documents in blue ink rather than black ink.

NOTARY CLAUSE

Starting with the words “State of," the notary clause is where, the notary public swears to the signatures on the will, and guarantees that the will was signed in his or her presence. In some states, the notary’s guarantee allows the will to be admitted into probate without needing the affidavits or appearances of any of the witnesses.

Instructions for Preparing Your Last Will & Testament

When you are ready to begin filling out your will, follow these step-by-step instructions. If you make a copy of the will form, you can use it as a worksheet.

1) Type your name (or print in ink), so the will is identified as yours.
2) Restate your name.
3) State the city or town where you reside. It is not necessary to use your street address.
4) State the county and state where you reside. This is where your will shall be probated.
5) Identify whom you wish as your personal representative.
6) State the address of your personal representative.
7) State your choice of alternate personal representative should your first-named personal representative be unable or unwilling to serve.
8) State the address of the alternate personal representative.

STOP: Once your will has been finalized, do not make any changes directly onto it as it will no longer be considered valid. Prepare a codicil to the will, or make a new will.

9) Identify who you wish as the guardian of any minor children.
10) State the name of the alternate guardian.
11) List your special bequests. Note that the sample will contain only two special bequests, but you may have many such bequests. Use copies of the enclosed blank will page if you need additional pages.
12) After you have listed your special bequests, specify who should inherit the balance of your property using the residuary clause. Name contingent beneficiaries in the event your primary beneficiary should predecease you.
13) Number each page. Examples: “page one of two,” “page three of eight.”
14) Initial each page of your will
15) State the day of the month the will was signed.
16) State the month and year.
17) Sign your will exactly as your name first appears.
18) State the date.
19) Acknowledge that the document is your will in front of the witnesses.
20) Each witness should sign his or her full name and also provide a complete address. Make certain your witnesses are disinterested parties.

21) Print or type the names of the testator and witnesses again, followed by their signatures.

22) The acknowledgement is normally completed by the notary. The notary should be present at the signing, along with the witnesses. Be certain your notary and witnesses see you sign and see each other sign.

STOP: Your beneficiaries should not serve as a witness to your will, as they may be denied all or part of what you bequeath them.

Chapter 5: **IDENTIFYING YOUR PERSONAL REPRESENTATIVE**

This section answers the following:

- What is role of the personal representative?
- What is the difference between an administrators and executors?
- What should you look for in a personal representative?
- What are some of the functions of a personal representative?
- What are *estate taxes*?
- What information will your personal representative need concerning your estate?

Your will must identify a personal representative and authorize them to probate your estate. This individual will be responsible for making important administrative decisions, gathering your assets, and distributing them to the beneficiaries in the event of your death. The personal representative is sometimes called the “executor” or “administrator” (if a male) and “executrix” or “administratrix” (if a female.)

By taking the initiative to prepare your will, you have the power to name your personal representative.

>> **KEY TERM**(S): The terms *executor* and *administrator* are often used interchangeably; in this guide we use the term “personal representative” to avoid any confusion. Technically, an "*executor"* is the person the testator chooses to oversee the affairs of their estate. An "*administrator"* is a person appointed by the probate court to assume the duties of an executor should a person die without a will.

While neglecting to name a personal representative will not invalidate your will, it may likely delay the process, as the court will need to find a relative who is willing to administer your estate. This can be a time-consuming and fruitless process, often resulting in the court appointing a total stranger to administer your affairs. Likewise, if you no will prepared at the time of your death, the court will appoints a stranger-- unaware of and unbounded by your last wishes--to take charge of your affairs.

Who's the Right Personal Representative For You?

Since the primary function of your personal representative is to honor and execute the terms of your will, a personal representative should be someone responsible. A spouse or close friend is often a good choice for this job as they can be trusted to act in the best interest of your estate. This individual will likely hire attorney to process the probate forms to ensure that everything is in order and implemented as you have specified.

You should not appoint a minor, a convicted felon, someone unwilling to serve or someone who might have a conflict of interest. For example, do not choose your business partner if he or she will have to evaluate the assets of your share of the business. It's important that your personal representative reside in the same state as you in case there is an issue with your estate. You can also appoint a bank representative is your personal representative; however the fees can be exorbitant.

To avoid offending someone, a testator often names two people as his or her personal representatives which is usually more of a headache than it's worth. Not only does this create more paperwork, it can also create an awkward situation when the two personal representatives are unable to agree on an issue. Simply stated, it's in your and your estates better interest to name only one personal representative to administer your affairs.

HINT: In order to serve, your personal representative may be required by law to post a bond. This money is simply a way of assuring the state that the person you selected will act in good faith. If you have confidence and trust in this individual, you can insert a clause in your will stating that your personal representative is to serve without posting a bond. Such a clause has been written into the Last Will & Testament in this guide. It reads:

"I further provide my personal representative shall not be required to post surety bond in this or any jurisdiction, and direct that no expert appraisal be made of my estate unless required by law."

A personal representative is paid a taxable commission or fee for his services. This fee is set by state law or the court, and can be up to six percent of the value of your estate. Quite frankly, the larger the estate the higher the fee. This fee can and often is waived by the personal representative. This is accomplished by inserting a clause into your will that might read:

"I direct my personal representative to serve without compensation beyond the normal expenses associated with the administration of my estate."

Responsibilities of Your Personal Representative

To help you choose your personal representative and, perhaps, to make it easier for that person to serve, the following lists some of the typical duties and responsibilities of the position:

1) perform or refuse to perform the decedent's contracts
2) fulfill charitable pledges made by the decedent
3) keep assets in the estate
4) receive assets from others
5) make repairs, erect or demolish buildings
6) subdivide, develop or improve land
7) lease from or to others with an option to purchase
8) enter into a mineral lease or similar agreement
9) advance money to protect the estate
10) arrange compromises with any person to whom the estate owes money
11) deposit or invest the estate's assets in appropriate investments
12) acquire, abandon or sell assets of the estate
13) vote securities in person or by proxy
14) insure assets against damage, loss and liability

15) insure himself or herself against liability to others
16) borrow money for the estate, with or without security, to be repaid from the estate's assets
17) pay taxes, assessments and other expenses
18) sell stock rights
19) employ people
20) consent to the reorganization, merger or liquidation of a business
21) sell, mortgage or lease property in the estate
22) go to court to protect the estate from the claims of others
23) continue as an unincorporated business
24) incorporate any business
25) distribute the assets of the estate

Estate Planning & Taxes

Because there is a $600,000 exemption and an unlimited marital deduction, many estates do not have to pay federal estate taxes. If your estate will be difficult to administer or if the value is more than $600,000, you should consult with a qualified estate planner or an attorney. Either will be to share strategies for lowering your tax liabilities as well as offer suggestions on estate-planning methods

HINT: Keep in mind, your estate may still be liable to pay federal, state income, gift and state inheritance taxes. These taxes must be paid from your estate BEFORE any bequests are distributed to your beneficiaries.

Organizing Your Estate

For your personal representative to administer your estate properly, he or she must have access to and copies of information concerning your estate. This includes:

- A complete list of all of your assets. Include all of your real estate, the names of any co-owners and the location of any deeds. List all of your personal property and remember to write the replacement cost of each item—that is, what it would cost to replace the item in today's economy, not the price you originally paid for it.
- Copies of all group and individual insurance policies.
- Your vital records. Include your birth certificate, last will, marriage licenses and divorce decrees.
- Your cemetery plot deed and burial instructions or requests.
- All retirement, pension or employee benefit plans with specific death benefits, including military records.

- An inventory of all legal documents concerning your assets and liabilities, including any business agreements, partnerships, stockholder agreements, trust agreements or wills under which you are a beneficiary, pre-nuptial agreements, spouse's will, bonds, stocks, bank accounts, mortgages and any valuable special collections that you may have.
- Your tax returns for the past three years, including any gift tax returns.
- A complete list of all of your debts and obligations, including any pledged assets, mortgages, personal notes or margin accounts with stockbrokers.
- Any other records that would help establish the value of your estate or that would help in the transfer of property after your death, including those provided in the Last Will & Testament in this guide.

Sore all of this information in an envelope clearly marked "will." Make sure you have a copy of this information with each copy of your will. As your circumstances and will changes, review and revise this information. Replace out-of-date copies with current ones and alert anyone having copies to the modifications that you've made.

Chapter 6: **COMMUNICATING YOUR BEQUESTS**

This section answers the following:

- Why is language important when drafting your bequests?
- How much detail do you need?
- What is a *contingency beneficiary* and why are they important?
- What's an *antilapse statute*?
- What's the difference between a per capita and a per stirpes bequest?
- Can a pet be named as a beneficiary?
- What's a *residuary bequest*?
- How can a will be used to forgive debt?

Clarifying Your Requests

While preparing your will is not difficult, you must pay particular attention to the language you use to make your bequests. For instance, if you state in your will, “I leave my ring to my son,” you know which ring and which son you are referring to, but would this request be as clear to someone else? You may have your great grandmother's antique diamond solitaire in mind for your bequest, but you have forgotten about the cubic zirconia your husband bought you as a gag gift. Describe the exact ring and the exact son that you are referring to (you could have more than one) will help eliminate confusion,

The language you use in your will communicates your intentions, therefore the more specific the language, the clearer your intentions will be to others.

The More Details the Better

Avoid words like: *desire, hope, want, pray, would like, believe* or *request* when making your bequests—they reflect your wishes but do little if anything to communicate your intent. Eliminate confusion and simplify the process of identifying the property you're bequeathing by providing detailed descriptions. Avoid vague bequests like the one, “I give my collection of books to my sister Kimberly Brooks.” Unless you want your sister to inherit every book in your home, you have to be more specific. A clearer statement of your intentions may be, “I give my collection first-edition, leather-bound books located in the third and fourth shelves of the bookcase in the guest room to my sister Kimberly Brooks.” In this case, your sister would only inherit 15 valuable volumes.

Similarly, when describing real property, list the addresses, plot, parcel, lot number and the name of the development. The extra details are helpful as addresses, streets, and even communities periodically change their names. Avoid using words that indicate quantity as they carry significant weight. For instance, words such as *all, every* and *entire* mean that there are **no** exceptions. Likewise, words such like *some, few,* and *several* have no specific numeric mean other than to indicate you mean more than one. Indicate the specific number of items whenever possible. The specifics don't stop there, when referring to your child(ren), name each child that you are bequeathing property to. Don't use collective references like “my children” unless you mean all of them, including natural children, step children and non-marital children.

HINT: Under modern state law, an adopted child named in a will is treated as if the adopted parent is the natural parent of that child.

Since many organizations and charities have similar names, the beneficiary of a charitable bequest must be specifically identified. "I give $5,000 to the Cancer Society" is a vague bequest. Properly phrased, it might read: "I give $5,000 to the American Cancer Society located at 4736 N.E.56th Ave., NY, NY 12578." This charity is properly identified because you have identified which cancer society you mean and exactly where it is located. You may also designate that you want your bequest to go to a special fund within the charity i.e. breast cancer, ovarian cancer, etc. Library funds, research funds, building funds, and educational funds are other examples of monetary bequests.

HINT: Wherever possible, try to include the address of each person you bequeath property to. Family member might not present a problem, but tracking down your old college roommate may be a different story. It makes your executor's job easier and, more importantly, ensures that the people you are hoping to provide for long after your death are able to be located.

Specifying your Bequests

With special bequests, you leave specific items to certain beneficiaries. Bequests should be complete, clear and specific regarding who is to receive which property. For example:

"I give my 1969 convertible Corvette to my son Jim Bates."

or

"I bequeath to the St Thomas Moore Catholic Church or Boynton Beach the sum of $15,000 to be used in any manner the church deems proper."

Your bequest may be personal property or real estate; your beneficiary may be an individual or an institution and the gift may not even have any monetary significance. A collection of photographs from memories shared, love notes exchanged while your parents were courting or the stuffed teddy bear your great grandfather left you can have significant sentimental value to those you name as beneficiaries.

HINT: Due to mergers and acquisitions, the ownership of public companies can change in a heartbeat. As such, it is imperative when bequeathing this type of property, to add a phrase such as: "I bequeath to Barbara Miller my stock in ABC Enterprises or equivalent stock in their corporate successor at the time of my death."

In the care of a property bequeath, you must be clear if the property you are giving is being given free and clear, without any debts or claims against it. If there is a debt attached to the gift, you must indicate whether the debt is to be paid from your general estate or by the beneficiary.

You must be as clear as possible regarding the distribution of these gifts. Here are some examples:

"I leave to my sister Shelly Flores my town home at 4957 Fulton Street, Lake Worth, subject to all mortgages."

Or

"I leave my niece Chantel Smyle my Chris Craft Sedan Cruiser, free of all encumbrances."

STOP! It is very important that you include your list of bequests in your will. Do not attach a separate list to your will, as the most courts will not consider that list part of your actual will.

Naming Contingent beneficiaries

It is possible that one of the beneficiaries you name in your will may die before you do. Just as it's important to identify an alternate personal representative and alternate guardian for your minor children, it is strongly recommended that you name an alternate for each beneficiary that you list in your will. For instance your will might include a clause like

"I give my 2004 Volkswagen Jetta to Jenson Thomas, or if he fails to survive me, I give that property to his daughter, Olivia Thomas."

Theoretically, there is no limit to how many alternate beneficiaries you may name. Quite frankly, alternate beneficiaries may be useful in creating different plans for distributing your estate. So while you may feel obligated to leave everything to a specific person, in the event of that person's death your can specify to redistribute your estate to other relatives, close friends, or even to charities.

HINT: You cannot use a will to change the beneficiaries of your life insurance policy. The policy itself must be changed and the appropriate insurance company notified.

Remember, if you name an alternate beneficiary for a child or other dependent, that alternate does not have to be another child or dependent. Be sure to specify the share each of your beneficiaries is to receive.

If you leave property to your children but a child dies before you do, should the deceased child's share be distributed among your other children? Would you prefer the share to be distributed among your child's children (your grandchildren)?

Antilapse statutes provide that, should a beneficiary of your property die before you, and you haven't rewritten your will, the property will go to their next heir in line rather than revert back to your estate. Without anti-lapse laws, all the property you had intended to leave that beneficiary could go back to the bulk of the estate and not end up in an actual family member's hands.

There is no correct answer to this, but here two alternative ways of expressing your wishes: the per capita bequest and the per stirpes request.

PER CAPITA BEQUEST

A per capita bequest leaves property distributed in equal shares to all entitled beneficiaries, as in this example:

"I leave all my property to my grandchildren who may survive me, in equal shares."

The key to this wording is the fact that each grandchild receives an equal share. Simply divide the property by the number of children surviving you.

STOP: David bequeathed $90,000 to his daughter in bonds and $90,000 to his son in cash. However, the value of the bonds had dropped to $50,000 at the time of David's death. To ensure that each child received an equal amount of money, David should have left each child 50 percent of his estate.

PER STIRPES BEQUEST

A per stirpes bequest divides property up in a more specific manner, such as:

"I leave all my property in equal shares to my children, but if any child shall predecease me, I leave that child's share to his or her children equally."

In this instance, the grandchild or grandchildren can inherit the proportion of the estate that their parent had been entitled to. For the purpose of inheritance, the grandchildren are taking the place of the parent. This is often called *inheritance by rights of representation*.

It is wiser to choose a per capita bequest over a per stirpes bequest. For example, Leslie bequeathed all of her property equally to her two daughters, Monique and Alexandria, or their lineal descendants, per stirpes. Monique had one child and Alexandria had two children. Both Monique and Alexandria died before Leslie. When Leslie dies, Monique's child inherits one half of the estate while Alexandria's children must share their half. If Leslie had left her estate per capita instead of per stirpes, each grandchild would have received one third of the estate.

OTHER CONTINGENT BEQUESTS

STOP! Animals are considered property since one property cannot own another property, they should pets should not be named as beneficiaries. If you have strong feelings about providing for the future care of your pet, be sure to make the appropriate arrangements, and if you intend to leave your pet as a gift, clear it with the beneficiary in advance.

Bequeathing an organ, while admirable is not a request you should include in your will. Not to mention, it is highly unlike that the request will be received in time. And keep in mind, even if you can make the donation, not every donated body is accepted, so plan accordingly.

Residuary Bequests

The "residuary" clause (often referred to as the safety net) names the "residuary beneficiary"—the person or organization who will receive (other than specific bequests) the remainder of your estate. It accounts for assets that might fall through the cracks in your will. Suppose you forgot to include a valuable piece of painting in your bequests, or you received a rare, limited edition collection of poetry after you prepared your will. What happens to these assets once your property is distributed? Without a residuary clause in your will, these valuable yet overlooked assets would be distributed as if you had no will.

A residuary clause allows you to designate exactly who should receive any overlooked assets. In instance, and in the case where you will specify other bequests, your residuary clause might read:

"I leave all the rest of my property to my loving husband Julian Kirkland."

If your will does no specify any bequest, which is your right, your will would contain only a single residuary bequest. An example of this type of residuary clause might read:

"I leave all my property to my husband Julian Kirkland."

Although no particular language is necessary, a more complete residuary clause might read:

"I leave all the rest, residue, and remainder of my estate, real, personal, and mixed, of whatever kind and wherever situated, in which I may have any interest or to which I may be entitled or over which I may have power of appointment, to my loving husband Julian Kirkland."

Another function of the Residuary Clause is to act as a "safety net." Since it distributes portions of your estate not accounted for by specific bequests, anything you have forgotten to include will be accounted for under your will. A valuable painting, a prized thoroughbred, a priceless broach acquired long after you prepared your will could fall through the cracks; the Residuary Clause prevents this from happening.

Releasing or Forgiving Debts

You can also use a will to release a beneficiary or debt. There are three ways to do this.

1) You may use your will to legally release the person from his or her obligation to repay you, whether or not the person is left property. Simply state in the bequest section of your will something that might read like this:

"I formally release Samuel Adams from his obligation to repay any outstanding balance remaining on the $25,000 that I loaned him on June 25, 1992."

2) Although Samuel Adams owes you money, you may still want to leave him a bequest. If you want him to receive his full share of the bequest, insert a clause that might read like this:

"I bequeath $20,000 to Samuel Adams and release him from his obligation to repay any money that he owes me. He is to receive the full amount of his bequest."

3) Samuel Adams owes you money and you want your estate to be repaid. To accomplish this, make the bequest and deduct the outstanding debt from it. For example:

"I leave $40,000 to Samuel Adams, less such balance on the $25,000 debt he owes me."

If Samuel Adams still owed you $25,000, he would receive only $15,000 from your $40,000 bequest. So what happens to the remaining $25,000 that is still in your estate? It would be covered by the residuary clause, and would be inherited by the beneficiary of that clause.

STOP! Before you use a will to five an entire debt, make sure you have the right do so. For instance, if the debt was incurred while you were married in a community property state, you may have the right to forgive only half of the debt. In such a case, it may be necessary to obtain a written agreement from your spouse agreeing to forgive the other half of the debt.

Is it a Gift or a Loan?

If you give $5,000 to your son during your lifetime, is it a gift or a loan? Your will needs to be clear and precise on these matters, since your son is probably a beneficiary in your will. Take the time to clarify issues these issues now to avoid confusion when it's time to administer your estate.

Chapter 7: **GETTING TO THE CLAUSE OF IT**

This section answers the following:

- What is the significance of an Adopted Children Clause?
- What's a *Simultaneous Death Clause* and why is it important?
- What is a No Contest Clause?
- What is the UPC and why is it significant?
- What is a *Cemetery Bequest Clause*?
- What is a *Funeral Expense Clause*?
- What is the importance of the Incorporation by Reference Clause?
- What is a *Pour-Over Clause* and why should everyone have one?
- What's a *Credit Shelter Trust*?
- What's a *Savings Clause*?

The last will provided in this guide may cover all your needs, however there are additional clauses that you may want to include. As you review the clauses below, consider which are appropriate to your situation. Should you feel the need to refer to a document outside of your will, or to include a copy of that document in your will, be sure to use the *incorporation by reference* clause.

What is the Adopted Children Clause?

While most states treat adopted children as though they were the parents' natural children, you may choose to refer to your children differently. Words like "heir," "descendants" and children are often used interchangeable. To avoid the possibility of any confusion, include a clause in your will that clearly defines what you want the word "children" to mean. Such a clause might read:

"By the use of the word 'child' or 'children' in this will, I mean any and all children lawfully adopted by me at any time before or after the making of this will."

What is the Simultaneous Death Clause?

One question that you and your spouse have likely pondered is, "What will happen to our will if we die together?" This question is both common and important as simultaneous death affects the distribution of property. Each state has a plan for the distribution of your property in the event that you both die in a common disaster, however, there's a strong likelihood that the state plan while well meaning may be counter to your wishes. Adding a simultaneous death clause to your will helps solve this dilemma. In the absence of such a clause, the state presumes that you, the testator, died first; the property is transferred to your deceased spouse and then immediately to your spouse's beneficiaries, not yours.

For example, Bob and Cher have separate wills. In Bob's will, Bob leaves most of his property to Cher and in Cher's will, Cher leaves most of her property to Bob. If Bob dies before Cher, Bob wants his property to go to his son from a previous marriage. Cher wants her property to go to her brother if Bob dies before she does. But according to state law, if Bob and Cher die

simultaneously, Bob's property goes to Cher's brother and Cher's property goes to Bob's son. Unfortunately the result is the opposite of what Bob and Cher had intended.

STOP! Stepchildren, unless legally adopted by the non-biological parent, only have rights to their biological parent's estate under intestate law. Likewise, children born out of wedlock can only inherit from a biological parent. A child born through artificial insemination inherits from the husband of the birth mother, not from the semen donor, and a child born from a surrogate mother has no rights to the estate of the surrogate mother but does have rights to his/her legal parents' estate.

HINT: A simultaneous death clause states that for the purpose of distributing property to those named in a will, the law should presume that the testator survives the beneficiary; that Cher died before Bob when his will was administered and that Bob died before Cher when her will is administered. In effect, this restores the original intentions of the will and allows the last wishes of each spouse to be honored.

It's usually recommended, and in this case imperative, that each spouse have a separate will. Separate wills permit each estate to be administered separately. A sample simultaneous death clause might read:

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

You may also have a similar clause concerning simultaneous death with a beneficiary under your will. Such a clause might read:

"If any beneficiary and I should die under 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."

What is the No Contest Clause?

Certain states will allow you to add a clause to your will to revoke any bequest to any beneficiary who challenges your will. In effect, this clause warns the challenger that if he or she loses the challenge, will walk away with nothing. It's prudent to leave a little more than the bare minimum to those people whom you wish to disinherit. By doing this and including a no contest clause, you encourage these potential challengers, to accept the terms of the will.

For example, if you had a no contest clause, Aunt Karen may decide that keeping the $380 you left her is better than gambling on losing it if she tries to collect the $1238 she feels she is entitled to.

An example of a no contest clause might read:

"If my beneficiary under this will either directly or indirectly challenges the validity of this will, any bequest left to said beneficiary shall be revoked."

HINT: In states that have adopted the UPC (Uniform Probate Code), the no contest clause is unenforceable and it is therefore ineffective. This is because, in those states, a person having probable cause to challenge a will retains the right to do so.

What is the Cemetery Bequest Clause?

To avoid issues and confusion, funeral arrangements should be made in advance so that you can bequeath the appropriate amount of money and so that your wishes are clearly understood. It is not recommend wait until your will to reveal your loved ones your funeral arrangement requirements, as the funeral may be over before the will is found. However, it is not uncommon to make a special bequest to a cemetery for the perpetual care of a cemetery plot.

A sample clause may read:

"I bequeath $5,000 to Forest Lawn Cemetery for the perpetual care of my cemetery plot."

What is the Funeral Expense Clause?

It is usually the responsibility of the personal representative to ensure that funeral expenses are paid for from money in the estate, but some states make the surviving spouse responsible for those expenses. A smart decision would be to include a clause directing where the money to pay the funeral expenses is to come from. One such clause may read:

"My debts and expenses of my funeral and burial shall be paid out of my estate."

What is the Incorporation by Reference Clause?

To incorporate a separate document into your will, you must make reference to it in your will with this clause like the following:

"I hereby intend to, and do, incorporate by reference into this will the following document dated January 1, 1998, which is now in existence at the time of this writing and is located at 500 Main Street, Anytown, PA. The document is described as follows: A listing of individual paintings and the intended beneficiary of each painting."

You can only incorporate a document into a will by reference if that document exists at the time the will is executed. Documents cannot be incorporated into the will at a later date unless a new will is drafted.

What is the Pour-Over Clause?

Those individuals who choose to avoid the time and cost of probate by putting all their assets in a living trust should have a will, if for no other reason than to insert a pour-over clause into it. A pour-over clause states that any asset inadvertently left out of a trust should, at the time of death, is automatically added to that trust.

For example, Tom Jones purchases a valuable stamp for his collection and plans to do the paperwork necessary to transfer it to his living trust. But he is killed in a plane crash before he can do so. Can the stamp still be placed in the living trust? Yes, through the use of a pour-over clause in Tom's will. A sample pour-over clause in Tom's will might read:

"The remainder of my estate, wherever located, I bequeath to the trustee or trustees named under a certain revocable living trust executed by me on January 1, 1995, between myself and the trustee of the Tom Jones Trust in the county of Any county and the state of Any state, to be added to the principal of the trust and to be administered in all respects as an integral part of that trust."

What is a Credit Shelter Trust?

STOP! If your gross estate (including living trust property) exceeds the exemption amount in the chart below you and are married you should consult an attorney or tax specialist.

The Economic Recovery Act of 1981 set the Unified Tax Credit Exemption at $600,000 for individuals or $1,200,000 for couples, as the amount exempt from estate taxes. As of January 1, 1998, this amount began a graduated increase over the next eight years until a maximum of $1,000,000 per individual ($2,000,000 per couple) is reached. The increase occurs as follows:

UNIFIED TAX CREDIT EXEMPTIONS

Year	Single	Couple
pre-1998	$600,000	$1,200,000
1998	$625,000	$1,250,000
1999	$650,000	$1,300,000
2000	$675,000	$1,350,000
2001	$675,000	$1,350,000
2002	$700,000	$1,400,000
2003	$700,000	$1,400,000
2004	$850,000	$1,700,000
2005	$950,000	$1,900,000
2006	$1,000,000	$2,000,000

If your gross estate as grantor exceeds the exemption amount in the chart above, you can minimize your estate taxes by establishing separate reciprocal living trusts (often called "credit shelter trusts" or "A-B trusts") for your and your husband This estate-planning tool allows your estate to pass to the trust rather than directly to the surviving spouse. The trust, in turn, provides the surviving spouse with a lifetime income from the trust. Since your trustee must be aware of your intention to use this type of trust, you may provide the following sample instructions:

"If my spouse shall survive me, I direct that my entire trust estate be given to my trustee(s) to be divided into two separate trusts which are herein referred to as 'Trust A' and 'Trust B.'

1) *Trust A shall have placed into it the sum of $_____. Said sum represents one-half of the value of my adjusted gross estate as defined by the Internal Revenue Code for the purposes of the marital deduction. Trust A shall be reduced to the extent allowed under the Internal Revenue Codes, by the value of all assets that pass or have passed to my spouse other than by the terms of this paragraph and that satisfy the marital deduction.*

2) *Trust B shall have placed into it an amount equal to the balance of my residuary estate after deducting the amount allocated to Trust A."*

What is the Savings Clause?

HINT: A savings clause helps to ensure that event in the event that a clause in your will is deemed to be invalid, the will can still be "saved" and is not revoked. Consider the savings clause sample below:

"In case any of the separate provisions in this will are found to be invalid, the invalidity of such a provision shall not affect the validity of any other provisions in this will, since it is my intention that each of the separate provisions shall be independent of each other, allowing all valid provisions to be enforced regardless of the validity of any of the others."

Chapter 8: **WHAT YOUR WILL CANNOT DO**

This section answers the following:

- What restrictions are there with a will?
- What is *non-probate property* and why can't it be included in your will?
- What states are community property states?
- Who should own your life insurance policy?
- What is *disinheriting* and what are its limitations?

While most states allow you a great deal of freedom to say what you want in your will, the have imposed specific limitations on the will may be used for, what you may give away, and how spouses and children are to be treated.

Keeping it Legal

The fundamental governing principle of a will is its lawfulness. Therefore if a request or an action was considered illegal during your lifetime, you cannot use your will to make it legal.

- **You cannot use your will to libel or defame another person**. Your will is consider a matter of public record, therefore if you write a false statement about another person your estate may be liable for damages. Do not abuse your will as a means to damage another person's reputation.

- **You cannot require someone to commit an act that is illegal in order for that person to inherit under your will**. A will cannot be used to violate public policy or command something be done that is not in the person's best interests; in some states, this includes requiring or forbidding a beneficiary to marry, work, or have children.

For example, if Jim's will contained a provision that Greg, Jim's neighbor, would inherit $20,000 if he would pistol whip Jim's former boss, it would be considered illegal.

Similarly, leaving money in your will to finance your son's drug addiction, or leaving money to your daughter on the condition she pays off your outstanding debt to a lone shark, are not legal bequests.

>> **KEY TERM**(S): *Slayer Statutes* are state statutes that prohibit anyone convicted of murder from inheriting from the estate of his victim.

Determining How Much to Leave to a Charity?

Most states limit the amount of money you can bequeath to charity. If you are survived by a loved one (spouse, child or a parent), charitable bequests cannot exceed more than one-half of your estate. In addition, charitable bequests made within a certain number of days before death may also be limited so check your state's laws regarding this and related issues.

Finding the Right Probate Attorney

The power to choose a particular attorney is not something you can specify in your will, it is a power reserved for your personal representative. If you have a strong or specific feeling regarding the choice of an attorney to probate your will, you should share them with your personal representative. You should feel confident that the personal representative you have chosen will to cooperate, whenever possible, with your wishes.

Non-Probate Property Explained

Property that cannot be included in your will is called *non-probate property* and is subject to laws or contracts that were made prior to your will and remains under control of those laws or contracts. This property is not considered part of your estate. Listed below are six common examples of non-probate property:

1) **Jointly owned property:** Since property is equally owned i.e., home, bank accounts, stocks and bonds or even your automobile automatically passes to the other joint owner upon your death. Owners of this property are often called “joint tenants with the right of survivorship"

2) **Community property:** To understand the theory of asset division in community property states, you must first understand that community property states view marriage as an equal business partnership. The law then divides property in to two categories: community property and separate property. Community property is anything acquired jointly, or by either spouse, during the marriage. Separate property is from one of two sources:

>> **KEY TERMS**: *Tenant (*types of ownership). In the case of renting or leasing, a tenant is the person(s) or company renting the property. When referring to the ownership of property, such as in a will, a tenant is the person or company who owns all or part of a property, as in “joint tenants with right of survivorship.”

a) Property that each spouse owned individually before the marriage and retained in his or her name after the marriage.

b) Property that each spouse received as a gift or inheritance either before or during the marriage.

It's important to note that each spouse’s separate property remains separate and is not subject to division. Even if you exchange one item of separate property for another, the new property remains separate property. The same goes for the proceeds from the sale of separate property used to acquire new property.

STOP! Be very careful before you commingle separate property with joint property, because once you do, the separate property becomes joint property subject to division. It is recommended to keep separate property separate so it can always be distinguished from joint property.

NOTE: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin are community property states.

As with assets, liabilities that either spouse has incurred prior to the marriage remain a separate obligation. While the parties may agree to keep separate debts incurred during the marriage, these provisions do not bind creditors.

So what is the best way to protect your property in a community property state? The first step is to start listing your property when you marry. Clearly stipulate that it is to remain separate property thereafter and continue to keep gifts or inheritances you receive during your marriage separate. These assets will then always remain yours.

3) **Property under contract:** If you had a contract to sell your home and you died before closing, the buyer could nevertheless enforce the contract. Although the house is not part of the estate, the proceeds of the sale would be.

4) **Life insurance policy:** If the beneficiary of your life insurance policy is a person who is still living, the proceeds from that policy are paid directly to that beneficiary and are not part of your estate. However, if the estate itself is the named beneficiary of your life insurance policy, or if the named beneficiary dies before you do, then the proceeds from the policy will become part of your estate.

5) **Pay-on-death account:** Also known as a Totten Trust, this is a special type of savings account. The depositor is listed as trustee and another person is the beneficiary. The advantage of this type of account is that the depositor may withdraw money from the account at any time during his or her lifetime. When the depositor dies, the money in the account is inherited by the named beneficiary. This money passes directly to the beneficiary and is not part of the depositor's estate.

6) **Property you no longer own:** Such as gifts you made during your lifetime.

7) **Living trust assets:** Most often, property held in a living trust automatically bypasses probate. That is one reason why living trusts are so popular. For information on living trusts and how they can benefit you, check out E-Z Legal's guide, *Living Trusts*

HINT: Most often you own your own life insurance policy, which means you must pay the premiums and designate the beneficiary(ies) of your choice. Consider having your spouse, or trusted family member or friend own your policy. You could continue top pay premiums and, if they were willing, ask them to choose the beneficiaries you wish. And since you would not actually own the policy you could avoid paying federal estate taxes upon your death

Life estates, pension plan distributions with beneficiaries who are named, and individual retirement accounts with named beneficiaries are also considered to be non-probate property and should not be included in your estate.

>> KEY TERMS: *Life estate.* A ***life estate*** is real estate that is owned for the duration of a person's lifetime.

What is Disinheriting?

Every state has a specific law or statute regarding deal with disinheritance. When you disinherit someone, exclude him of her from your will.

DISINHERITING YOUR SPOUSE

By state law, it's almost impossible to disinherit a spouse completely. Even if you decided to leave a token gift of $1 to your spouse, your spouse would, have the right (under most state laws) to reject the dollar inheritance and instead take a state-mandated percentage (usually about 30 percent) of the estate. This percentage is called a ***forced share*** or ***elective share***. The court usually permits the spouse six to nine months to decide whether to take his or her forced share.

For example, Kenny bequeaths all of his property to his children from a previous marriage. He leaves nothing to his wealthy wife. Under the law, Kenny's wife can still receive a fixed percentage his estate, and his children will share the remainder.

STOP! Upon sufficient evidence of abandonment by a spouse, some states allow the abandoned spouse to disinherit the departed spouse. However, a missing spouse, one who has not necessarily abandoned their partner but who has inexplicably disappeared, could not be disinherited and would have to be declared legally dead by a court of law.

Another example, Meggan has a joint bank account with her husband. She puts half of her property in this account and states in her will that her brother is to inherit all of her other property when she dies. In fact, when Meggan dies her husband receives not only all of the money in the joint account, but also a fixed percentage (about 30 percent) of all the property that Alice willed to her brother. In effect, the state is saying that the law will try to provide for your surviving spouse even if you do not.

In some states a distinction is made between personal property and real estate (or real property). Under certain circumstances, a husband may disinherit his wife from any share in his real property in:

Arizona	Michigan	South Dakota
District of Columbia	North Carolina	Utah
Florida	North Dakota	Wisconsin
Georgia	South Carolina	

A husband, may under certain circumstances, disinherit his wife from any share in his personal property in:

Alaska	Georgia	South Carolina
Arizona	Michigan	South Dakota

Delaware	North Dakota	Utah
Florida	Oregon	Wisconsin
	Rhode Island	

Fewer states grant a wife the right to disinherit a husband. Only North Dakota and South Dakota permit her to disinherit him from a share in her real property. A wife may, however, disinherit a husband from personal property in:

Alaska	New Jersey	South Carolina
Delaware	North Dakota	South Dakota
Georgia	Oregon	Utah
	Rhode Island	

If you are planning to disinherit your spouse, but are not sure of the laws in your state, you can use this language as an example:

"I leave to my wife, Jennifer, absolutely nothing, or, if unlawful to do so, such minimum share of my estate as shall be required by state law."

If your spouse signs a valid prenuptial, ante-nuptual, or pre-marriage agreement waiving any rights to inherit, then you may disinherit that spouse in any state.

Keep in mind; it is often wiser to leave your spouse some bequest so as to avoid a contest over your will.

DISINHERITING YOUR CHILDREN

If you're contemplating disinheriting your children, should you simply leave them out of your will? Disinherit someone by leaving them out of the will isn't advisable. It could be argued that it was an oversight or a mistake on your part.

A better idea is to leave that person a token amount of money or a token gift. By leaving someone the sum of $1, you are informing the court that you did give some thought to that bequest. If you decide that even one dollar is too much to give that person, you should specifically state in your will that you disinherit that person, and if possible explain the reason. This helps to clarify to anyone reading the will that you did not leave that person out by mistake. Proper language to disinherit may read:

"Since I have not heard from my daughter Crystal in over five years, I leave her nothing."

Or

"I recognize that my daughter Michele is financially secure, and therefore leave her nothing."

STOP! ANY of your beneficiaries or heirs can contest (or challenge the validity of) your will. Be certain you prepare your will correctly and legally and if you disinherit someone, make certain there are no grounds for declaring the will invalid.

Chapter 9: **Once Your Will is Completed**

This section answers the following:

- Where should you store your will?
- How safe is a safety deposit box?
- What should you do with your old wills?
- Should you keep a copy of your will on the computer?

Storing Your Will

Your will should be stored in a safe, easily accessible location. When it is time for your personal representative to execute and administer your estate plan, he or she must have your will in hand. Not to mention, this is hardly the time for grief and anxiety stricken family members to comb through your residence trying to locate your will.

There are four recommended locations to store your original will, and regardless of which you choose, it's a good idea to store a copy in at least one additional place:

1) **Probate court or registry of wills.** Check with your state to see if they permit a testator to register a will with the probate court or registry of wills. If so, deposit your original so that it will always be there on file. One of the drawbacks is that by doing this, you have to return to the court anytime you want to revise your will.
2) **Your attorney.** Depositing your original will with your attorney is also a good idea. You'll find that most are eager to store your document for free as they know it increases the likelihood that you will use their services in the future.
3) **Safe deposit box.** A safety deposit box is a great place to store your original will. And even if the box is sealed upon your death, as a matter of law, the bank may allow a personal representative or member of the immediate family to gain access to the safe deposit box to retrieve the will. Since the will must be probated anyway, and there should be at least one copy elsewhere, a sealed, safe deposit box should not present any significant problems.

HINT: Be advised, you could encounter two challenged by placing your will in a safety deposit box. First, since many states seal safety the boxes upon your death, it may be difficult to access your will, increasing the time and money spent to probate your estate. Second, spouse or family member will be at the mercy of the bank to obtain access to your box.

Given the potential issues, it would seem to make place your will in a safe deposit box rented in your spouse's name, and keep your spouse's will in a safe deposit box rented in your name. This way, each will is immediately available to the other spouse, even if the box has been sealed.

STOP! In the event that create a new will, make sure you destroy every copy including the original so there is no question that you have revoked the prior will.

4) **Friend, relative, or personal representative.** You can also leave your will with a trusted friend, relative or the personal representative of your estate.

It's pretty common, after a person's death, for more than one (and even conflicting) will to resurface. Since only one will is valid, the court uses the date of the will as the determining factor. Therefore, the most recent will is presumed to be the valid will governing your estate.

Wherever you choose to deposit your original will, make sure that copies are accessible. Keep accurate records of where your will and copies are located, and give this information to your personal representative.

STOP! Do not store your will on a computer disk as it must be printed, signed and witnessed to be considered valid.

Chapter 10: **YOUR ETERNAL WILL**

This section answers the following:

- Under what circumstances will the law revoke your will?
- What is a *codicil* and why is it important?
- What states will automatically revoke a will upon marriage?
- When should you consider revising (or rewriting) your will?
- What is an *annulment*?
- What is an *ante-nuptial*?
- How has the language of wills changed through the years?
- What happens if I change my mind about a bequest?

There are three occasions when the law automatically revokes your will, they are as follows:

1. **You intentionally destroy your will.** Destroying a will includes intentionally burning, tearing, canceling or obliterating it. If your will is destroyed by an accidental fire in your home, a copy of the signed original may be offered to the court as evidence of your intention. It is presumed that if you had wanted to destroy your will, you would have also destroyed the copies.

2. **You change your will without following legal procedure**. If you want to make changes to your will, there are two legally accepted ways:

    a. *Prepare a codicil.* A codicil is a legal supplement used to add or remove something from your will. It must meet the same requirements as a will, and must also have the same number of witnesses. In some case, it's less complicated to prepare a new will, than to add a codicil.

HINT: J. Paul Getty, one of the world's richest men drafted no less than 21 separate codicils between 1960 and 1976 with each codicil canceling its predecessor. Could there be a 22nd?

    b. *Prepare a new will.* A new will affords you the time and opportunity to revaluate each provision and to make all of the changes at one time. It's important that your new will state that it revokes or cancels all prior wills and codicils that you have made. Without this statement, the court may treat it as an amendment and not as a replacement.

3. **An operation of law, such as marriage or divorce, cancels your will.**

    a. *Marriage.* Unless your will specifically states that you were planning on marriage when you made your will, it will be revoked upon your marriage in these nine states:

Connecticut	Kentucky
Georgia	Massachusetts
New Hampshire	Oregon
Rhode Island	West Virginia

Wisconsin

STOP! For example, Tony bequeathed all of his property to his brother. Although Tony later married Donna, a wealthy debutante, Tony never changed his will because he still wanted his brother to inherit his money. However, Tony's marriage to Donna automatically revoked his will, and technically, he died without one. Donna inherited his entire estate and Tony's brother received nothing.

In California, Nevada and Washington, your will is not revoked upon your marriage, but bequests made to your former spouse are canceled.

In Delaware, Kansas, Louisiana, Maryland, Oklahoma and Tennessee your entire will is revoked if and when a child is born of a new marriage.

Marriage has no effect upon a will in the following states:

Alabama	Alaska	Arizona
Arkansas	Colorado	Florida
Hawaii	Idaho	Illinois
Indiana	Iowa	Louisiana
Maine	Michigan	Minnesota
Mississippi	Missouri	Montana
Nebraska	New Jersey	New Mexico
New York	North Carolina	North Dakota
Ohio	Pennsylvania South	Carolina
Texas	Utah	Vermont
Virginia	Wyoming	

As of this printing, the preceding and the following information about specific states are true. You should check your individual state's laws for updated information.

4. *Divorce*. If you become divorced in Connecticut, Georgia or West Virginia, your will is revoked. A divorce does not revoke your will in the following states, but it does revoke bequests made to a former spouse:

Alabama	Alaska	Arizona
Arkansas	California	Colorado
Delaware	Florida	Hawaii
Idaho	Illinois	Indiana
Kansas	Kentucky	Maine
Maryland	Massachusetts	Michigan
Minnesota	Missouri	Montana
Nebraska	Nevada	New Jersey
New Mexico	New York	North Carolina
North Dakota	Ohio	Oklahoma
Oregon	Pennsylvania	Rhode Island
South Carolina	South Dakota	Tennessee
Texas	Utah	Virginia
Washington	Wisconsin	Wyoming

A divorce has no effect on a will in these states:

Iowa	Louisiana	Mississippi
New Hampshire	Vermont	

Signs to Change a Will

Intentional destruction of your will, changing your will, a new marriage or a divorce is clear signals that you must prepare a new will. It may also be wise to prepare a new will if:

- There is a significant change in your financial condition or if your will contains bequests of items that you no longer own.
- A min or child reaches adulthood, is emancipated, or is married, and is able to take responsibility for him or herself without a legal guardian.
- There are family additions, such as the birth or adoption of a child. Here you may decide to appoint a guardian and include the child in your will.

KEY TERM(S): *Annulment.* In the case of an annulment, the court declares that your marriage had never occurred in the first place so there is no reason to create a new will.

- There are changes in the federal or state tax laws. Changes in your tax bracket, deductions or exemptions can have a dramatic impact upon your estate. It is a sound idea to review your will every year at tax time.
- Your personal relationships change. As old friendships fade away and you make new ones, or as loved ones' needs change, you may want to change your beneficiaries.
- A beneficiary and/or the alternate beneficiary dies before you do.
- You move to another state. A change in your permanent residence affects how your will may be administered.

A new will, written in the state w here you currently live, is easier to administer. Your will also helps to establish your legal residence. Unless any of the foregoing circumstances occur, your will continues to be valid for an unlimited time.

Like a will, a prenuptial, an ante-nuptial, or a pre-marriage agreement not only addresses the division of property, but addresses insurance, pension plans, and children. A prenuptial agreement could help in determining ownership should one party die without a valid will. You could accomplish the same thing with a postnuptial agreement after marriage.

The Evolution of a Will

Language and the legalese may have evolved since the first formal, legal will was created. However, the last will and testament has remained essentially the same form and format. People hundreds of years ago were bequeathing their property to family members and friends as carefully and specifically as we do today—proof that no matter what property you own, how wealthy you may be, and how many beneficiaries you choose, a will is still a will, and everyone needs one.

To give you an example, here's a will nearly 400 years old:

The Will of Martin Christian, 1615

In the name of God, Amen, I Martin Christen of Pevemsey in the County of Sussex, being sicke and weake in body and in good remembraunce thanks bee to God, doe ordayne this my last will and Testament in manner and forme followinge.

That is to say ffirst I committ my Soule into the Hands of Almighty God my maker and Redeemer and my body to te earth in Christian buryalls. And concerninge my land, goods and chattels I will and give unto my sonne John and heyres for ever my Crofte of Land in Pevemsey called Gregs Crofte, which I lately purchased of ffrauncis Normun and Zabulon Newington, uppon condition that hee the sayd John shall paye unto my sonne Abraham his youngest brother fyfteene pounds when the said Abraham shall attayne the Age of One and Twenty years.

Item: I give unto my sonne Stephen and his heyres for ever my dwellinge howse barne and crofte of lande thereto belonging with the appurtenaunts uppon condition that he shall paye to my sayd sonne Abraham six pounds when he shall accomplishe the age of Three and Twenty years. Provided that if my sonne Stephen shall dye before hee shall attayne to the sayd age of One and Twenty years, my will is that Abraham shall have the sayd howse barn and crofte.

Item: My will is that I enioyne the sayd Stephen if he live, or the sayd Abraham if Stephen dye before the sayd age, to paye my twoe daughters Sara and Mary Ten pounds a peece at their severall ages of One and Twenty years and the one to be the others heyres if eyther of them dye before. Item: My mynde and will is that if I dye of this sicknes my wife shall have the crofte given to John whole rent free for one yeare after my decease and her dwellinge in the house and use and proffitt of the same and barne and crofte untill Stephen attayne to the age of Three and Twenty years. Item: I give unto my sonne John one cupbord and one ioyned chest. Also I give to eache of my three sonnes A pewter platter.

All the rest of my goods and chattles unbequeathed, my debts payd and funerall expenses dischardged, I bequeath to Dorathye my wife whom I make sole Executrix of this my Last Will and Testament and ordayne Richard Cockshott and John Walcock my Overseers. Also, my will is that, whereas above sayd I have appoynted my sonne John to pay to my sonne Abraham fyfteene pounds if Stephen shall dye before he come to this age aforesayd that Abraham enioye the lande, then Tenn pounds of the fifteene shalbee uqually devided between my twoe daughters and the five pounds to remayne with John. Also, I give to my Overseers in token of love three shillings four pence a peece.

Dated this thirde day of August One Thousand six hundred and fyfteene.

The marke of Martin Christen Witnesses hereof Richard Cockshott his mark John Walcock his marke George Wilborke.

Proved 29th August 1615, Archdeaconry of Lewes
Probate to Dorathy Christian, Relict

What Happens if I Change My Mind?

Your will is a legal document that can be modified as you see fit. Any property that you bequeath is property that you still own up to the time of your death. As such, you have the right to sell, destroy, abandon, make a gift of or distribute it in any manner that you see fit. Remember, a will only becomes effective upon your death.

For example, the bequest that "I leave to my brother Stan my 2003 BMW" means that your brother Stan inherits your 2003 Cadillac sedan only if you own it at the time of your death. If you traded your BMW for a 2005 Lexus, your brother would not receive the Lexus in its place unless you updated the will to specify the change. If you decide to give Stan your BMW while you are still living, your gift cancels the Cadillac left to him in your will.

Of course, an up-to-date will reflects your latest wishes more clearly and is easier to administer. If your will contains several bequests that are no longer possible, it is time to add a codicil or write a new will. You should review your will on a regular basis. Mark the time for reviewing your will on your calendar, or do it every October—National Will Month.

HINT: If your previously canceled will is replaced by an invalid one, the canceled will is held to be the valid one. This prevents the person from dying intestate.

Chapter 11: **UNLOCKING THE MYSTERIES OF PROBATE**

This section answers the following:

- What is *probate* and why is it important?
- What's the difference between a formal and informal probate process?
- What are the steps involved in a formal probate proceeding?
- What are the grounds for contesting a will?
- What is *undue influence*?
- What is any circumstance can cause an issue with probate?
- What happens once your will has been accepted by the court?

Why is Probate & Why is it Important?

Probate is the process by which the court gives its official approval to your will and your personal representative is appointed. In the event of your death, your will is submitted to the court by your personal representative. The court reviews your will to determine the signatures are genuine, that you were free from delusions when you made the will, and that you were not pressured, threatened or tricked into making or alter any of the terms of the will. In addition, the court also examines the character and past of your personal representative. If your will meets the requirements of the court, it is admitted, the personal representative is official appointed that you and is instructed to carry out the terms of your will. This allows your personal representative to distribute and liquidate your property and to take any necessary legal actions on your behalf.

KEY TERM(S) *Probate*. This literally means “proof of a will;” probate court is the entity that processes the estate of a deceased person; probate estate is all of a person’s assets that go through probate.

What's the Difference Between Formal & Informal Probate?

There are two classification of probate: formal and informal.

Formal probate requires that any person interested in the will, including creditors of the estate, be notified within thirty days of the reading of the will, so they may challenge its validity and/or the appointment of the personal representative.

Formal proceedings generally involve ten steps:

1) A formal petition to admit the will to probate is filed with the court.
2) All interested parties are given notice.
3) If there is a will, the will is recognized by the court as genuine.
4) Unless waived, the personal representative posts bond.
5) The court issues letters of administration.
6) The personal representative files an inventory with the court.
7) The creditors are given notice of time allotted to present claims against the estate.
8) All taxes, debts, and expenses of the estate are paid.

9) Beneficiaries receive their distributions.
10) The personal representative files a final account with the court.

Informal probate may be conducted when the assets of the deceased's estate are below a certain value determined by state statute or when there is no reason for the court to supervise the entire process of settling the estate. Persons with an interest in the will are not notified and the clerk of the court acts as the registrar, voluntary executor, or voluntary administrator. Thus, it is a relatively simple process with a minimum of paperwork. In some states, informal probate is known as independent probate or probate in common form.

Why is Probate Important?

Probate is a process necessary to protect your wishes and your beneficiaries. One of the most important functions of probate is to make sure that the document you are submitting as your Last Will & Testament is really your last one.

HINT: Keep in mind a will can be changed as often as at any time up until your death. Many of us can recall famous probate cases where large estates could never be distributed because there was no reliable way to determine which document was the last will.

What Are the Grounds for Contesting a Will?

To contest a will, the beneficiary must prove that he or she would lose a benefit if the will was allowed. It may also be contested by any beneficiary or heir if it is determined to fall under the following circumstances:

- the will was not properly filled out
- the testator was of unsound mind
- there was fraud involved
- the testator did something contrary to his or her real wishes and desires.

The burden of proof is always upon the person contesting the will.

What is Undue Influence?

To contest a will on the grounds of undue influence, one must prove:

- undue influence was exerted on the testator
- the intention of the undue influence was to overpower the testator's mind and will
- the result of the undue influence was the creation of a will, codicil or provision to a will that is clearly not the intention of the testator but of the influencing party(ies) using the following evidence:

a) the testator was physically or mentally weak
b) opportunity of the influencing party(ies)
c) the outcome of the will greatly favors the influencing party(ies).

HINT: Just in case you were considering it, you cannot inherit from your parents if you are found guilty of their murder. Spouses who are found guilty of their mate's murder receive only their share of jointly owned property, and have no rights to anything owned solely by the deceased spouse.

Potential Problems for Probate

There are certain situations that cause special problems when an estate is probated. Should you find yourself with one of these problems, seek the advice of an attorney. These situations include, but are not limited to, the following:

- illegal acts, including committing murder to benefit from the deceased's will
- abandonment by a spouse
- missing spouse
- artificial insemination issues

What Happens After Probate?

Once your Last Will & Testament has been accepted by the court, the probate process ensures that your beneficiaries receive their inheritances exactly as you instructed. Most states provide a family allowance to take care of the surviving spouse and minor children until probate is completed. This amounts to an advance against what the family will inherit under the will.

Chapter 12: **STAYING SMART ABOUT TAKING ACTION**

This section answers the following:

- What's the best way to lower your legal expenses?
- When should you hire an attorney?
- What elements should you consider before taking legal action?
- How do you determine what attorney is right for you?
- Where should you go to find an attorney?
- What should you consider before hiring your attorney?

Being Smart About Your Legal Fees

Everyday, millions of people consider hiring an attorney to help in legal matters like: get agreements in writing, protect themselves from lawsuits, or documenting business transactions. Unfortunately these important matters are often neglected because legal advice can be expensive.

Responding to the overwhelming demand for affordable legal protection and services, there are now specialized clinics that process simple documents. In addition, many paralegals freelance to help people prepare legal claims. Now more than ever, people are taking the imitative to handle their own legal affairs with do-it-yourself legal guides and kits

When are these alternatives to a lawyer appropriate? If you hire an attorney, how can you make sure you're getting good advice for a reasonable fee? Most importantly, do you know how to lower your legal expenses?

Understanding When You Need an Attorney

Make no mistake: serious legal matters require a lawyer. The tips in this book can help you reduce your legal fees, but there is no alternative to good professional legal services in certain circumstances:

- when you are charged with a felony, you are a repeat offender, or jail is possible
- when a substantial amount of money or property is at stake in a lawsuit
- when you are a party in an adversarial divorce or custody case
- when you are an alien facing deportation
- when you are the plaintiff in a personal injury suit that involves large sums of money
- when you're involved in very important transactions

Questions to Consider Before Legal Action

Consider the following questions before you pursue legal action:

What are your financial resources?

Money buys experienced attorneys, and experience wins over first-year lawyers and public defenders. Even with a strong case, you may save money by not going to court. Yes, people win millions in court. But for every big winner there are ten plaintiffs who either lose or win so little that litigation wasn't worth their effort.

Do you have the time and energy for a trial?

Courts are overbooked, and by the time your case is heard your initial zeal may have grown cold. If you can, make a reasonable settlement out of court. On personal matters, like a divorce or custody case, consider the emotional toll on all parties. Any legal case will affect you in some way. You will need time away from work. A newsworthy case may bring press coverage. Your loved ones, too, may face publicity. There is usually good reason to settle most cases quickly, quietly, and economically.

How can you settle disputes without litigation?

Consider *mediation*. In mediation, each party pays half the mediator's fee and, together, they attempt to work out a compromise informally. *Binding arbitration* is another alternative. For a small fee, a trained specialist serves as judge, hears both sides, and hands down a ruling that both parties have agreed to accept.

How Do You Determine What Attorney is Right for You?

Having done your best to avoid litigation, if you still find yourself headed for court, you will need an attorney. To get the right attorney at a reasonable cost, be guided by these four questions:

What type of case is it?
You don't seek a foot doctor for a toothache. Find an attorney experienced in your type of legal problem. If you can get recommendations from clients who have recently won similar cases, do so.

Where will the trial be held?
You want a lawyer familiar with that court system and one who knows the court personnel and the local protocol—which can vary from one locality to another.

Should you hire a large or small firm?
Hiring a senior partner at a large and prestigious law firm sounds reassuring, but chances are the actual work will be handled by associates—at high rates. Small firms may give your case more attention but, with fewer resources, take longer to get the work done.

What can you afford?
Hire an attorney you can afford, of course, but know what a fee quote includes. High fees may reflect a firm's luxurious offices, high-paid staff and unmonitored expenses, while low estimates may mean "unexpected" costs later. Ask for a written estimate of all costs and anticipated expenses.

What the Best Way to Find an Attorney?

Whether you need an attorney quickly or you're simply open to future possibilities, here are seven nontraditional methods for finding your lawyer:

1) **Word of mouth**: Successful lawyers develop reputations. Your friends, business associates and other professionals are potential referral sources. But beware of hiring a friend. Keep the client-attorney relationship strictly business.
2) **Directories**: The Yellow Pages and the Martin-Hubbell Lawyer Directory (in your local library) can help you locate a lawyer with the right education, background and expertise for your case.
3) **Databases**: A paralegal should be able to run a quick computer search of local attorneys for you using the Westlaw or Lexis database.
4) **State bar associations**: Bar associations are listed in phone books. Along with lawyer referrals, your bar association can direct you to low-cost legal clinics or specialists in your area.
5) **Law schools**: Did you know that a legal clinic run by a law school gives law students hands-on experience? This may fit your legal needs. A third-year law student loaded with enthusiasm and a little experience might fill the bill quite inexpensively—or even for free.
6) **Advertisements**: Ads are a lawyer's business card. If a "TV attorney" seems to have a good track record with your kind of case, why not call? Just don't be swayed by the glamour of a high-profile attorney.
7) **Your own ad**: A small ad describing the qualifications and legal expertise you're seeking, placed in a local bar association journal, may get you just the lead you need.

What Should You Consider Before Hiring Your Attorney?

No matter how you hear about an attorney, you must interview him or her in person. Call the office during business hours and ask to speak to the attorney directly. Then explain your case briefly and mention how you obtained the attorney's name. If the attorney sounds interested and knowledgeable, arrange for a visit.

10 Tips to Evaluating Your Attorney

1) Note the address. This is a good indication of the rates to expect.
2) Note the condition of the offices. File-laden desks and poorly maintained work space may indicate a poorly run firm.
3) Look for up-to-date computer equipment and an adequate complement of support personnel.
4) Note the appearance of the attorney. How will he or she impress a judge or jury?
5) Is the attorney attentive? Does the attorney take notes, ask questions, follow up on points you've mentioned?
6) Ask what schools he or she has graduated from, and feel free to check Credentials with the state bar association.
7) Does the attorney have a good track record with your type of case?
8) Does he or she explain legal terms to you in plain English?
9) Are the firm's costs reasonable?
10) Will the attorney provide references?

Put it in Writing

Having chosen your attorney, make sure all the terms are agreeable. Send letters to any other attorneys you have interviewed, thanking them for their time and interest in your case and explaining that you have retained another attorney's services.

Request a letter from your new attorney outlining your retainer agreement. The letter should list all fees you will be responsible for as well as the billing arrangement. Did you arrange to pay in installments? This should be noted in your retainer agreement.

Controlling legal costs

Legal fees and expenses can get out of control easily, but the client who is willing to put in the effort can keep legal costs manageable. Work out a budget with your attorney. Create a timeline for your case. Estimate the costs involved in each step.

Legal fees can be straightforward. Some lawyers charge a fixed rate for a specific project. Others charge contingency fees (they collect a percentage of your recovery, usually 35-50 percent if you win and nothing if you lose). But most attorneys prefer to bill by the hour. Expenses can run the gamut, with one hourly charge for taking depositions and another for making copies.

Have your attorney give you a list of charges for services rendered and an itemized monthly bill. The bill should explain the service performed, who performed the work, when the service was provided, how long it took, and how the service benefits your case.

Ample opportunity abounds in legal billing for dishonesty and greed. There is also plenty of opportunity for knowledgeable clients to cut their bills significantly if they know what to look for. Asking the right questions and setting limits on fees is smart and can save you a bundle. Don't be afraid to question legal bills. It's your case and your money!

When the bill arrives

- **Retainer fees**: You should already have a written retainer agreement. Ideally, the retainer fee applies toward case costs, and your agreement puts that in writing. Protect yourself by escrowing the retainer fee until the case has been handled to your satisfaction.
- **Office visit charges**: Track your case and all documents, correspondence, and bills. Diary all dates, deadlines and questions you want to ask your attorney during your next office visit. This keeps expensive office visits focused and productive, with more accomplished in less time. If your attorney charges less for phone consultations than office visits, reserve visits for those tasks that must be done in person.
- **Phone bills**: This is where itemized bills are essential. Who made the call, who was spoken to, what was discussed, when was the call made, and how long did it last? Question any charges that seem unnecessary or excessive (over 60 minutes).
- **Administrative costs**: Your case may involve hundreds, if not thousands, of documents: motions, affidavits, depositions, interrogatories, bills, memoranda, and letters. Are they all necessary? Understand your attorney's case strategy before paying for an endless stream of costly documents.
- **Associate and paralegal fees**: Note in your retainer agreement which staff will have access to your file. Then you'll have an informed and efficient staff working on your case, and you'll recognize their names on your bill. Of course, your attorney should handle the important part of your case, but less costly paralegals or associates may handle routine matters more economically.

Note: Some firms expect their associates to meet a quota of billable hours, although the time spent is not always warranted. Review your bill. Does the time spent make sense for the document in question? Are several staff involved in matters that should be handled by one person? Don't be afraid to ask questions. And withhold payment until you have satisfactory answers.

- **Court stenographer fees**: Depositions and court hearings require costly transcripts and stenographers. This means added expenses. Keep an eye on these costs.
- **Copying charges**: Your retainer fee should limit the number of copies made of your complete file. This is in your legal interest, because multiple files mean multiple chances others may access your confidential information. It is also in your financial interest, because copying costs can be astronomical.
- **Fax costs**: As with the phone and copier, the fax can easily run up costs. Set a limit.
- **Postage charges**: Be aware of how much it costs to send a legal document overnight, or a registered letter. Offer to pick up or deliver expensive items when it makes sense.
- **Filing fees**: Make it clear to your attorney that you want to minimize the number of court filings in your case. Watch your bill and question any filing that seems unnecessary.
- **Document production fee**: Turning over documents to your opponent is mandatory and expensive. If you're faced with reproducing boxes of documents, consider having the job done by a commercial firm rather than your attorney's office.
- **Research and investigations**: Pay only for photographs that can be used in court. Can you hire a photographer at a lower rate than what your attorney charges? Reserve that right in your retainer agreement. Database research can also be extensive and expensive; if your attorney uses Westlaw or Nexis, set limits on the research you will pay for.
- **Expert witnesses**: Question your attorney if you are expected to pay for more than a reasonable number of expert witnesses. Limit the number to what is essential to your case.
- **Technology costs**: Avoid videos, tape recordings, and graphics if you can use old-fashioned diagrams to illustrate your case.
- **Travel expenses**: Travel expenses for those connected to your case can be quite costly unless you set a maximum budget. Check all travel-related items on your bill, and make sure they are appropriate. Always question why the travel is necessary before you agree to pay for it.
- **Appeals costs**: Losing a case often means an appeal, but weigh the costs involved before you make that decision. If money is at stake, do a cost-benefit analysis to see if an appeal is financially justified.
- **Monetary damages**: Your attorney should be able to help you estimate the total damages you will have to pay if you lose a civil case. Always consider settling out of court rather than proceeding to trial when the trial costs will be high.
- **Surprise costs**: Surprise costs are so routine they're predictable. The judge may impose unexpected court orders on one or both sides, or the opposition will file an unexpected motion that increases your legal costs. Budget a few thousand dollars over what you estimate your case will cost. It usually is needed.
- **Padded expenses**: Assume your costs and expenses are legitimate. But some firms do inflate expenses — office supplies, data base searches, copying, postage, phone bills—to bolster their bottom line. Request copies of bills your law firm receives from support services. If you are not the only client represented on a bill, determine those charges related to your case.

Keeping it legal without a lawyer

The best way to save legal costs is to avoid legal problems. There are hundreds of ways to decrease your chances of lawsuits and other nasty legal encounters. Most simply involve a little common sense. You can also use your own initiative to find and use the variety of self-help legal aid available to consumers.

11 situations in which you may not need a lawyer

1) **No-fault divorce**: Married couples with no children, minimal property, and no demands for alimony can take advantage of divorce mediation services. A lawyer should review your divorce agreement before you sign it, but you will have saved a fortune in attorney fees. A marital or family counselor may save a seemingly doomed marriage, or help both parties move beyond anger to a calm settlement. Either way, counseling can save you money.
2) **Wills**: Do-it-yourself wills and living trusts are ideal for people with estates of less than $600,000. Even if an attorney reviews your final documents, a will kit allows you to read the documents, ponder your bequests, fill out sample forms, and discuss your wishes with your family at your leisure, without a lawyer's meter running.
3) **Incorporating**: Incorporating a small business can be done by any business owner. Your state government office provides the forms and instructions necessary. A visit to your state office will probably be necessary to perform a business name check. A fee of $100-$200 is usually charged for processing your Articles of Incorporation. The rest is paperwork: filling out forms correctly; holding regular, official meetings; and maintaining accurate records.
4) **Routine business transactions**: Copyrights, for example, can be applied for by asking the U.S. Copyright Office for the appropriate forms and brochures. The same is true of the U.S. Patent and Trademark Office. If your business does a great deal of document preparation and research, hire a certified paralegal rather than paying an attorney's rates. Consider mediation or binding arbitration rather than going to court for a business dispute. Hire a human resources / benefits administrator to head off disputes concerning discrimination or other employee charges.
5) **Repairing bad credit**: When money matters get out of hand, attorneys and bankruptcy should not be your first solution. Contact a credit counseling organization that will help you work out manageable payment plans so that everyone wins. It can also help you learn to manage your money better. A good company to start with is the Consumer Credit Counseling Service, 1-800-388-2227.
6) **Small Claims Court**: For legal grievances amounting to a few thousand dollars in damages, represent yourself in Small Claims Court. There is a small filing fee, forms to fill out, and several court visits necessary. If you can collect evidence, state your case in a clear and logical presentation, and come across as neat, respectful and sincere, you can succeed in Small Claims Court.
7) **Traffic Court**: Like Small Claims Court, Traffic Court may show more compassion to a defendant appearing without an attorney. If you are ticketed for a minor offense and want to take it to court, you will be asked to plead guilty or not guilty. If you plead guilty, you can ask for leniency in sentencing by presenting mitigating circumstances. Bring any witnesses who can support your story, and remember that presentation (some would call it acting ability) is as important as fact.

8) **Residential zoning petition**: If a homeowner wants to open a home business, build an addition, or make other changes that may affect his or her neighborhood, town approval is required. But you don't need a lawyer to fill out a zoning variance application, turn it in, and present your story at a public hearing. Getting local support before the hearing is the best way to assure a positive vote; contact as many neighbors as possible to reassure them that your plans won't adversely affect them or the neighborhood.
9) **Government benefit applications**: Applying for veterans' or unemployment benefits may be daunting, but the process doesn't require legal help. Apply for either immediately upon becoming eligible. Note: If your former employer contests your application for unemployment benefits and you have to defend yourself at a hearing, you may want to consider hiring an attorney.
10) **Receiving government files**: The Freedom of Information Act gives every American the right to receive copies of government information about him or her. Write a letter to the appropriate state or federal agency, noting the precise information you want. List each document in a separate paragraph. Mention the Freedom of Information Act, and state that you will pay any expenses. Close with your signature and the address the documents should be sent to. An approved request may take six months to arrive. If it is refused on the grounds that the information is classified or violates another's privacy, send a letter of appeal explaining why the released information would not endanger anyone. Enlist the support of your local state or federal representative, if possible, to smooth the approval process.
11) **Citizenship**: Arriving in the United States to work and become a citizen is a process tangled in bureaucratic red tape, but it requires more perseverance than legal assistance. Immigrants can learn how to obtain a "Green Card," under what circumstances they can work, and what the requirements of citizenship are by contacting the Immigration Services or reading a good self-help book.

Chapter 13: **TERMS, RESOURCES & RELATED INFORMATION**

This section answers the following:

- How do I make sense of the language and terms in a will?
- What websites can I visit to get more information on wills and estate planning?
- What's the best source of information on viatical settlements?
- Where are some legal search engines?
- Where do I contact the bar association in my state?

Glossary of Terms

Administer
To manage an estate until the terms of the will are completely executed.

Affidavit
A sworn statement in writing made under oath.

Alternate
A beneficiary selected as a contingency if the original person selected is determined not to be eligible.

Assets
The property of a deceased person subject by law to the payment of his or her debts.

Beneficiary
A person, institution, or charity that is designated to inherit money or property through a will.

Bequest
Personal property gifted in a will.

Bond
Good faith money paid to the court by the personal representative. This money serves as insurance that the will execution will be carried out properly.

Codicil
A legal instrument prepared to amend an earlier drafted will.

Contingent beneficiary
An alternate beneficiary listed in the will.

Defame
A written or oral representation that conveys an unjustly unfavorable impression.

Devise
To give real estate by method of a will.

Disinherit

To specifically prevent someone from inheriting anything by stating it in the will.

Elective share
The percentage of the estate that a spouse may choose instead of inheriting under the will.

Encumbrance
A claim against property; such as a mortgage.

Estate
The assets and liabilities left by a person upon death.

Executor/Executrix
The person appointed to execute the will. Executor is the male term while executrix is the female term.

Guardian
One who has the care of minor children.

Gift
Bequests made in the will.

Inheritance
Anything bequeathed to a person from a will.

Intestacy
Situation where there is no valid will after death.

Legal age
The age when a minor becomes an adult.

Libel
Written representation that conveys an unjustly unfavorable impression.

Living will
A legal document signed by a competent person in order to provide guidance for medical and health-care decisions that may need to occur when they are no longer able to make the decisions.

Non-marital child
A child born outside of marriage.

Non-probate property
Property that is not part of an estate.

Notary
Person authorized by the state to authenticate documents.

Operation of law
The rights and obligations that are established by law.

Personal representative
The person identified by the will who administers the estate.

Probate
A judicial determination of the validity of a will.

Personal property
Property other than real estate consisting of things that are temporary or movable.

Real property
Property that is immovable, real estate.

Residuary bequests
Property that has not specifically been designated in the will.

Revoke
To annul or take back.

Spouse
Partner in marriage; husband or wife.

Testator/Testatrix
Person who dies leaving a will. Testator is the male term while testatrix is the female term.

Trust
A property interest held by one person for the eventual benefit of another.

Valid
Executed with the proper legal authority.

Viatical
Service that enables someone facing a terminal illness to utilize the present day value of their life insurance policy to mitigate financial burdens caused by the high costs of medical care.

Will
A legal statement of a person's wishes concerning the disposal his or her property after death.

Witness
An impartial person who signs the will to authenticate it.

Will Sites

Visit one of the websites below for more information on wills

- ABA Law Practice Management Section — Estate Planning and Probate Interest Group
  URL: http://www.abanet.org/lpm/lpdiv/estate.html

- An Adoptive Child's Right to Inherit
  URL: http://www.scottsdalelaw.com/adoptive.html

- California Estate Planning, Probate & Trust Law
  URL: http://www.ca-probate.com

- Choice in Dying
  URL: http://www.choices.org

- CPA Journal on Line: Avoiding probate

- Crash Course in Wills and Trusts
  URL: http://www.mtpalermo.com

- Discovering and Obtaining Death Benefits
  URL: http://www.bluefin.net/~jtcmac

- Estate Planning for Unmarried Couples
  URL: http://www.trustwizard.com/unmar.htm

- Estate Planning Links Web Site, The
  URL: http://hometown.aol.com/dmk58/eplinks.html

- Estate Project For Artists With AIDS/HIV
  URL: http://www.artistswithaids.org

- FAQ on Wills From Teahan & Constantino
  URL: http://www1.mhv.net/~teahan/willfaq.htm

- FindLaw
  URL: http://www.findlaw.com/01topics/31probate

- Growth House, Inc.
  URL: http://www.growthhouse.org

- Law & Estate Planning Sites on the Internet
  URL: http://www.ca-probate.com/links.htm

- Law Journal Extra!
  URL: http://www.ljx.com/practice/trusts/index.html

- Law Offices of Alvin E. Prather
  URL: http://www.pratherlaw.com/legalese.html

- Legal Information Institute
  URL: http://www.law.cornell.edu/topics/state_statutes .html#probate

- 'Lectric Law Library™
  URL: http://www.lectlaw.com

- National Association of Financial and Estate Planning
  URL: http://www.nafep.com

- Robert Clofine's Estate Planning Page
  URL: http://www.estateattorney.com

- Ralf 's 'Lectric Law Library™ Tour
  URL: http://www.lectlaw.com/formb.htm

- Wills on the Web
  URL: http://www.ca-probate.com/wills.htm

Expert Advice on Setting Viaticals

A viatical settlement is a financial service for the terminally ill which enables qualified individuals to obtain immediate cash from all or part of their life insurance policies.

- Better Business Bureau: Tips for Consumers: Viatical Settlements
  URL: http://www.bbb.org/library/viatical.html

- National Viatical Association
  http://www.nationalviatical.org

- Viatical Association Of America, The
  URL: http://www.cais.net/viatical

- Viatical Settlements: A Guide for People with Terminal Illnesses
  URL: http://www.ftc.gov/bcp/conline/pubs/services/viatical.htm

Related Will & Financial Planning Sites

- Institute of Certified Financial Planners
  URL: http://www.icfp.org

- International Association for Financial Planning
  URL: http://www.iafp.org

- MSN MoneyCentral
  URL: http://www.moneycentral.com/retire/home.asp

- National Association of Personal Financial Advisors
  URL: http://www.napfa.org

- Pension and Welfare Benefits Administration
  URL: http://www.dol.gov/dol/pwba

- World Wide Web Virtual Library: Law**:**
  URL: http://www.law.indiana.edu/law/v-lib/property.html

Popular Legal Search Engines

- All Law
  http://www.alllaw.com

- American Law Sources On Line
  http://www.lawsource.com/also/searchfm.htm

- Catalaw
  http://www.catalaw.com

- FindLaw
  URL: http://www.findlaw.com

- Hieros Gamos
  http://www.hg.org/hg.html

- InternetOracle
  http://www.internetoracle.com/legal.htm

- LawAid
  http://www.lawaid.com/search.html

- LawCrawler
  http://www.lawcrawler.com

- LawEngine, The
  http://www.fastsearch.com/law

- LawRunner
  http://www.lawrunner.com

- 'Lectric Law Library™
  URL: http://www.lectlaw.com

- Legal Search Engines
  http://www.dreamscape.com/frankvad/search.legal.html

- LEXIS/NEXIS Communications Center
  http://www.lexis-nexis.com/lncc/general/search.html

- Meta-Index for U.S. Legal Research
  http://gsulaw.gsu.edu/metaindex

- Seamless Website, The
  http://seamless.com

- USALaw
  http://www.usalaw.com/linksrch.cfm

- WestLaw
  http://westdoc.com (Registered users only. Fee paid service.)

Contacting the Bar Association in Your State

ALABAMA
Alabama State Bar
415 Dexter Avenue
Montgomery, AL 36104

Please use mailing address:
PO Box 671
Montgomery, AL 36101
(205) 269-1515
http://www.alabar.org/

ALASKA
Alaska Bar Association
510 L Street No. 602
Anchorage, AK 99501

Please use mailing address:
PO Box 100279
Anchorage, AK 99510

ARIZONA
State Bar of Arizona
111 West Monroe
Phoenix, AZ 85003-1742
(602) 252-4804

ARKANSAS
Arkansas Bar Association
400 West Markham
Little Rock, AR 72201
(501) 375-4605

CALIFORNIA
State Bar of California
555 Franklin Street
San Francisco, CA 94102
(415) 561-8200
http://www.calbar.org/

Alameda County Bar Association
http://www.acbanet.org/

COLORADO
Colorado Bar Association
No. 950, 1900 Grant Street
Denver, CO 80203
(303) 860-1115
http://www.usa.net/cobar/index.htm

CONNECTICUT
Connecticut Bar Association
101 Corporate Place
Rocky Hill, CT 06067-1894
(203) 721-0025

DELAWARE
Delaware State Bar Association
1225 King Street, 10th floor
Wilmington, DE 19801
(302) 658-5279
(302) 658-5278 (lawyer referral service)

DISTRICT OF COLUMBIA
District of Columbia Bar
1250 H Street, NW, 6th Floor
Washington, DC 20005
(202) 737-4700

Bar Association of the District of Columbia
1819 H Street, NW, 12th floor
Washington, DC 20006-3690
(202) 223-6600

FLORIDA
The Florida Bar
The Florida Bar Center
650 Apalachee Parkway
Tallahassee, FL 32399-2300
(904) 561-5600

GEORGIA
State Bar of Georgia
800 The Hurt Building
50 Hurt Plaza
Atlanta, GA 30303
(404) 527-8700
http://www.kuesterlaw.com/ comp.html

HAWAII
Hawaii State Bar Association
1136 Union Mall
Penthouse 1
Honolulu, HI 96813
(808) 537-18
http://www.hsba.org/

IDAHO
Idaho State Bar
PO Box 895
Boise, ID 83701
(208) 334-4500

ILLINOIS
Illinois State Bar Association
424 South Second Street
Springfield, IL 62701
(217) 525-1760

INDIANA
Indiana State Bar Association
230 East Ohio Street
Indianapolis, IN 46204
(317) 639-5465
http://www.iquest.net/isba/

IOWA
Iowa State Bar Association
521 East Locust
Des Moines, IA 50309
(515) 243-3179
http://www.iowabar.org

KANSAS
Kansas Bar Association
1200 Harrison Street
Topeka, KS 66601
(913) 234-5696
http://www.ink.org/public/cybar/

KENTUCKY
Kentucky Bar Association
514 West Main Street
Frankfort, KY 40601-1883
(502) 564-3795
http://www.kybar.org/

LOUISIANA
Louisiana State Bar Association
601 St. Charles Avenue
New Orleans, LA 70130
(504) 566-1600

MAINE
Maine State Bar Association
124 State Street
PO Box 788
Augusta, ME 04330
(207) 622-7523
http://www.mainebar.org/

MARYLAND
Maryland State Bar Association
520 West Fayette Street
Baltimore, MD 21201
(410) 685-7878
http://www.msba.org/msba/

MASSACHUSETTS
Massachusetts Bar Association
20 West Street
Boston, MA 02111
(617) 542-3602
(617) 542-9103 (lawyer referral service)

MICHIGAN
State Bar of Michigan
306 Townsend Street
Lansing, MI 48933-2083
(517) 372-9030
http://www.umich.edu/~icle/

MINNESOTA
Minnesota State Bar Association
514 Nicollet Mall
Minneapolis, MN 55402
(612) 333-1183

MISSISSIPPI
The Mississippi Bar
643 No. State Street
Jackson, Mississippi 39202
(601) 948-4471

MISSOURI
The Missouri Bar
P.O. Box 119, 326 Monroe
Jefferson City, Missouri 65102
(314) 635-4128
http://www.mobar.org

MONTANA
State Bar of Montana
46 North Main
PO Box 577
Helena, MT 59624
(406) 442-7660

NEBRASKA
Nebraska State Bar Association
635 South 14th Street, 2nd floor
Lincoln, NE 68508
(402) 475-7091
http://www.nol.org/legal/nsba/index.html

NEVADA
State Bar of Nevada
201 Las Vegas Blvd.
Las Vegas, NV 89101
(702) 382-2200
http://www.dsi.org/statebar/nevada.htm

NEW HAMPSHIRE
New Hampshire Bar Association
112 Pleasant Street
Concord, NH 03301
(603) 224-6942

NEW JERSEY
New Jersey State Bar Association
One Constitution Square
New Brunswuck, NJ 08901-1500
(908) 249-5000

NEW MEXICO
State Bar of New Mexico
121 Tijeras Street N.E.
Albuquerque, NM 87102

Please use mailing address:
PO Box 25883
Albuquerque, NM 87125
(505) 843-6132

NEW YORK
New York State Bar Association
One Elk Street
Albany, NY 12207
http://www.nysba.org/

NORTH CAROLINA
North Carolina State Bar
208 Fayetteville Street Mall
Raleigh, NC 27601

Please use mailing address:
PO Box 25908
Raleigh, NC 27611
(919) 828-4620

North Carolina Bar Association
1312 Annapolis Drive
Raleigh, NC 27608

Please use mailing address:
PO Box 12806
Raleigh, NC 27605
(919) 828-0561
http://www.barlinc.org/

NORTH DAKOTA
State Bar Association of North Dakota
515 1/2 East Broadway, suite 101
Bismarck, ND 58501

Please use mailing address:
PO Box 2136
Bismarck, ND 58502
(701) 255-1404

OHIO
Ohio State Bar Association
1700 Lake Shore Drive
Columbus, OH 43204

mailing address:
PO Box 16562
Columbus, OH 43216-6562
(614) 487-2050

OKLAHOMA
Oklahoma Bar Association
1901 North Lincoln
Oklahoma City, OK 73105
(405) 524-2365

OREGON
Oregon State Bar
5200 S.W. Meadows Road
PO Box 1689
Lake Oswego, OR 97035-0889
(503) 620-0222

PENNSYLVANIA
Pennsylvania Bar Association
100 South Street
PO Box 186
Harrisburg, PA 17108
(717) 238-6715
Pennsylvania Bar Institute
http://www.pbi.org

PUERTO RICO
Puerto Rico Bar Association
PO Box 1900
San Juan, Puerto Rico 00903
(809) 721-3358

RHODE ISLAND
Rhode Island Bar Association
115 Cedar Street
Providence, RI 02903
(401) 421-5740

SOUTH CAROLINA
South Carolina Bar
950 Taylor Street
PO Box 608
Columbia, SC 29202
(803) 799-6653
http://www.scbar.org/

SOUTH DAKOTA
State Bar of South Dakota
222 East Capitol
Pierre, SD 57501
(605) 224-7554

TENNESSEE
Tennessee Bar Assn
3622 West End Avenue
Nashville, TN 37205
(615) 383-7421
http://www.tba.org/

TEXAS
State Bar of Texas
1414 Colorado
PO Box 12487
Austin, TX 78711
(512) 463-1463

UTAH
Utah State Bar
645 South 200 East, Suite 310
Salt Lake City, UT 84111
(801) 531-9077

VERMONT
Vermont Bar Association
PO Box 100
Montpelier, VT 05601
(802) 223-2020

VIRGINIA
Virginia State Bar
707 East Main Street, suite 1500
Richmond, VA 23219-0501
(804) 775-0500

Virginia Bar Association
701 East Franklin St., Suite 1120
Richmond, VA 23219
(804) 644-0041

VIRGIN ISLANDS
Virgin Islands Bar Association
P.O. Box 4108
Christiansted, Virgin Islands 00822
(809) 778-7497

WASHINGTON
Washington State Bar
Association
500 Westin Street
2001 Sixth Avenue
Seattle, WA 98121-2599
(206) 727-8200
http://www.wsba.org/

WEST VIRGINIA
West Virginia State Bar
2006 Kanawha Blvd. East
Charleston, WV 25311
(304) 558-2456
http://www.wvbar.org
.
West Virginia Bar Association
904 Security Building
100 Capitol Street
Charleston, WV 25301
(304) 342-1474

WISCONSIN
State Bar of Wisconsin
402 West Wilson Street
Madison, WI 53703
(608) 257-3838
http://www.wisbar.org/home.htm

WYOMING
Wyoming State Bar
500 Randall Avenue
Cheyenne, WY 82001

PO Box 109
Cheyenne, WY 82003
(307) 632-9061