

Re: Wills / Trusts / Advanced Healthcare Directives / Powers of Attorney / Estate Planning Documents

Thank you for inquiring about preparation of a will. If you are preparing a "standard will" there are certain basic matters you should consider before meeting with me. Simple, standard wills are generally used for estates under two million dollars, after which federal estate taxes are applicable. This dollar amount will increase periodically, according to a schedule through 2010. However, even small estates can require more complex wills if trusts are created, business ownership is conveyed, or if various other unusual circumstances are present.

FIRST

If you are married, you must decide whether you and your spouse want to prepare reciprocal wills. Such wills typically name the surviving spouse as the beneficiary of all assets. The wills for Husband and Wife further provide that the surviving spouse may give the estate as he or she desires.

SECOND

You must consider whether you want to leave any specific item to any specific person. Items of sentimental value (such as engagement rings, valuable collections or heirlooms) are often given in this way. Many people avoid mentioning specific bequests in their will because they might change their mind regarding the bequest, or because the item given becomes sold, transferred, lost or destroyed. Members of close, trustworthy families will often convey their intentions regarding specific bequests by writing a letter which they attach to their will. Such a letter could be changed from time to time without the involvement of an attorney. However, such a letter is not legally binding. It is not enforceable. A family's love and trust are your only insurance when you attempt to give specific items in a letter.

THIRD

Some person or persons must be named to receive all the rest of your estate, including real estate, bonds, bank accounts, cash, personal property, etc. Married persons' wills typically name the surviving spouse. In the event there is no surviving spouse, most simple wills direct that this entire remaining estate be liquidated and divided equally between the heirs (usually to the children, share and share alike). Personal property is usually divided up by some fair arrangement which is agreeable to the family and to the executor.

FOURTH

If you give your estate in equal shares to your children, you must consider how you would leave your estate if one or more of your children die before you. Would such a child's share be given to his or her own children, *i.e.* your grandchildren? If any such child does not have children, to whom would you give that share: a surviving spouse, your own surviving children, another recipient, a charity, etc.?

FIFTH

You must select an executor of your estate. This is the person who probates your will and is charged with distributing your assets in accordance with your will. This person should know how to take charge of business, and should be good with paperwork. Accounting papers must be filed with the Register of Wills as well as with the various taxing authorities. Homes may need to be sold, stocks liquidated, bank accounts closed, and debts paid. This work is often designated to an attorney or to the most proficient and trusted member of the family. Any executor is entitled to a fee, but is not obliged to charge it. You should also select an alternate executor in case the first person you have chosen as executor is unable or unwilling to serve.

SIXTH

If any of your assets are given to minor children (under the age of 18) you must designate a trustee to be in charge of such funds until each child becomes an adult. Even if your children are grown, remember that part of your estate might be given to a grandchild. If this occurs, who do you want to place in charge of the child's account? You should name your first choice for trustee, and an alternate as well. The trustee and the executor can be one in the same. Likewise, your alternate executor may also serve as your alternate trustee.

SEVENTH

Don't forget charities. You may desire to leave something to your place of worship or to some special organization. Now is the time to think about it.

EIGHTH

If you have minor children of your own, you should select a guardian for each child. You cannot force anyone to serve as a child's guardian, but in the event of any dispute among family and friends, your choice of guardian will eliminate confusion, and give clear direction to any court. Again, remember to name an alternate guardian.

As you can see, there is much to consider when writing your will. Please do the bulk of your thinking before you meet with me. I can answer your remaining questions at our first meeting. If you have not yet scheduled a conference regarding your will, feel free to call my office during any workday. My secretary will be happy to arrange an appointment. When you call for an appointment, give my secretary your responses to each of the eight items listed above. Also, make sure we have your full correct name, address, social security number and telephone number. I will prepare your will, in rough, prior to your appointment. You will be able to leave my office with a finished will, in just one visit.

My charge for an individual simple will is \$180. Complex wills are more expensive. The charge for reciprocal wills (husband and wife) is \$270 for both wills. The same charges apply for Power of Attorney documents. For your information, I also prepare Advance Directives for Health Care (commonly called "living wills"). I discount my usual fee significantly when these documents are prepared simultaneously. Complex wills, living trusts, testamentary trusts, and other estate planning trusts, are billed pursuant to an hourly rate structure.

I hope this letter has been helpful, and I thank you for considering my services. I look forward to conferring with you in the near future.

Very truly yours,

KEVIN W. KOLOGINSKY

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