

THE DANGERS OF DO-IT YOURSELF WILLS & TRUSTS:

Packaged Estate Planning Docs Are a Big No-No BY GARY ALTMAN, ESQ.

There will be many projects this spring where you (or even a not-so-crafty attorney like myself) may be compelled to try and DIY (Do-It-Yourself) - replacing a light fixture, trying a new faux finish painting technique, maybe even putting up a new fence if you're feeling bold. But there is one project that you should never, ever take on alone and that is drafting your own will or trust.

DIY Estate Planning Services

In a time where just about anything can be purchased online and when infomercials inundate our airwaves boasting all kinds of "How To" products aimed at making we consumers feel invincible, it's important to remember that when it comes to legal documents, if it seems too good (a.k.a. simple/cheap) to be true, it most certainly is.

From LegalZoom to Suze Orman, there are no shortage of companies and products promising hassle-free, "customizable", wills and other estate planning documents - at "a tiny fraction of the cost of an estate planning attorney". Yes, I'll admit it, I do charge more than \$20 to draft wills for my clients. And here's why:

Problems

Countless problems can arise when using online wills and trusts services. Here are just a few:

- **Laws** - What good is estate planning software you purchased back in 2000 if the laws change in 2009? Estate laws (whether Federal or State) are not written in stone. They change, they expire, they act retroactively! The new administration has many changes in store with respect to the Federal Estate Tax and other laws that could greatly impact your estate planning. My job as a professional is to stay on top of these changes and to make sure that your estate planning documents take them into consideration for the benefit of you and your beneficiaries!
- **State-Specific Laws** - Most often these types of online/DIY services do not take into account specific state laws. Only an attorney practicing law in your state can accurately advise you regarding the various jurisdictional issues that may affect many of your decisions regarding your estate. States have varying requirements such as the number of witnesses that must attest to the creation

of a will. Failure to comply with such conditions could result in intestacy, where a court will completely invalidate your will as a means to distribute wealth and property. Only a skilled estate planning attorney can ensure that your estate wishes are honored.

- **Plain Meaning Rule** - The plain meaning rule, which instructs courts to look only at the plain meaning of words contained in the will, underscores the importance of obtaining professional advice. A simple typo - an incorrect word or clause - can dramatically transform the legality and meaning of the will, negating the very purpose of its creation.
- **Trusts** - Trusts are often used as a means of avoiding probate and shielding against hefty estate taxes. There are many kinds of trusts used in estate planning (i.e. revocable, irrevocable, discretionary, spendthrifts, marital, special needs and testamentary trusts, to name a few) and only an experienced attorney has the experience and understanding to advise on the most appropriate and effective one for your unique estate. Online and other forms of DIY estate planning services are not equipped to provide you with advice or to determine which type of trust is advisable for your unique situation.
- **Misc** - There are a host of other potential problems with DIY estate planning tools. Such services cannot account for the plethora of related financial, tax and personal issues that should be identified and thoroughly considered, such as a child who has a spending problem or one who is has marriage difficulties or one who may have a creditor problem or lawsuit in the future. In addition, they don't address the critically important issue of regular review and maintenance of your estate documents throughout the course of your lifetime.

The Bottom Line?

A home improvement project may be one thing, but don't take a chance with trying to take on your own estate plan. Any perceived savings will almost assuredly be wiped out and then some by negligence and by then it may be too late!

For the latest information on estate planning, follow our estate planning blog, *Altman Speaks*.

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"Don't take a chance with trying to take on your own estate plan."

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