



DIY Estate Planning Documents

An abundance of information is at our fingertips. Any question we have can be answered by a few strokes on a keyboard. With all of that information readily available, it is no surprise that the DIY movement has exploded.

Including DIY legal documents.

People tell themselves, "How hard can it really be to get a will?" I can print it off the internet, have it signed and notarized, and BOOM, I'm covered. Cheap, Quick, and Easy.

Cheap, quick, and easy does not always equate to "legal and binding".

The heirs of Anthony J. Ferrantino found that out the hard way:

LegalZoom was the target of a class action lawsuit in California, charging that the company engages in deceptive business practices and is practicing law without a license. The lawsuit was filed in California by Katherine Webster, the niece of the late Anthony J. Ferrantino, and the executor of his estate.

Knowing that he had only a few months to live, Mr. Ferrantino asked Webster to help him use LegalZoom to execute a Will and Living Trust. Based on LegalZoom's advertising, Webster says she believed the documents would be legally binding and if they encountered problems, the customer service department would resolve them.

But after the Trust documents were signed, Webster could not transfer any assets into the trust because the bank that held his money *refused to accept the documents as valid*. Webster tried to get help from LegalZoom, with no success. The trust was still not funded when Mr. Ferrantino died in November 2007.

Webster was forced to hire a probate attorney to ask the court to allow the post-death funding of the trust. The attorney then had to convince the banks to transfer the funds -- a more difficult task following Mr. Ferrantino's death. The attorney also discovered that the Will had not been properly witnessed. All this cost Mr. Ferrantino's estate thousands of dollars.

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Can't happen to you? Know about South Carolina and Witnesses?

Under a SC probate law "purging statute" a person who acts as a witness to a Will's execution and who is also named as beneficiary in that will, may have his bequest reduced and possibly disallowed. How many people who use their own form Wills downloaded from legal Zoom (or bought in packaged software) will be aware of that? How many people, will innocently ask other family members who are listed beneficiaries to be a witness to the signing?

I interned for a Judge one summer who loved to address the issue of DIY legal work with *pro se* litigants. It usually went like this:

Judge: "Mr./Ms. Person, let me ask you a question. If your appendix needed to be removed because it was inflamed and making you ill, what would you do?"

Mr./Ms. Person: "Well, I would go to the hospital and have a doctor remove it." (I find it fascinating that every single time he asked that question, the person would answer this way. They would have a smile and such conviction in their answer because they had no idea they just fell into his trap.)

Judge: "I see. So, you would go the hospital and let a trained, qualified, doctor who attended and graduated medical school perform the surgery?"

Mr./Ms. Person: (A little hesitation in their voice) "Yes Sir."

Judge: "So, you would go to a doctor, who has a degree in medicine, to remove the appendix. You would go to a doctor, over say, doing it yourself on the kitchen table with a sharp knife and some alcohol?"

Mr./Ms. Person: (confused look on their faces) "Yes Sir." or even sometimes "Of course, I wouldn't try to operate on myself."

Judge: "I see. So if you would go to the doctor for a surgery, where would you go if you needed some dental work done?"

Mr./Ms. Person: "A Dentist"

Judge: "I see. So you would go to a doctor for medical issues and a dentist for dental issues. Well, then, you seem like a very practical and intelligent human being. So, tell me, why on earth would you NOT go see an attorney for your legal issues? An attorney who has gone through law school, passed the bar, and knows the law like a doctor knows medicine?"

Mr./Ms. Person: (shocked and scared expression) "Umm, well." (Litany of excuses follow).

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Interesting way to picture this situation is it not? For every other matter, people seek out a qualified licensed professional. Why is legal work any different?

The bottom line is: Do-it-yourself legal documents might seem like a good idea at the time, but they are not worth the potential costly hassle they can cause. What you think is a good document could really be a useless piece of paper.

Talk to a qualified attorney today about your Estate Plan. Peace of mind comes from having documents in place that you can rely on 100%.

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