

Don't Be "Penny-Wise and Pound-Foolish" When Creating an Estate Plan

This Weekly Newsletter
is brought to you by

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The advent of internet-based document drafting and legal services has bought complications as an increasing number of people attempt to create their own legal documents. While the use of internet-based forms presents a plethora of problems, the lack of legal guidance from an experienced attorney may result in unintended consequences and expensive litigation. A Florida Supreme Court Justice, Justice Pariente, in his concurrence, described the outcome of a recent case as a "cautionary tale of the potential dangers of utilizing pre-printed forms and drafting a will without legal assistance" and noted that "the ultimate cost of utilizing such a form to draft one's will has the potential to far surpass the cost of hiring a lawyer at the outset."

In *Aldrich v. Basilem*, 39 Fla. L. Weekly 159 (2014), Ms. Aldrich created a will by utilizing an "EZ Legal Form." Under this will, Ms. Aldrich identified specific possessions and bank accounts that would pass to her sister, or her brother in the event her sister predeceased her. Unfortunately, the EZ Legal Form used by Ms. Aldrich did not contain a residuary clause, or a provision for the disposition of assets not otherwise disposed of under the will. The court found that, under Florida law, the failure to include a residuary clause results in the estate, excluding those items specifically provided for elsewhere under the terms of the will, passing via intestate succession. Thus, despite that fact that Ms. Aldrich left a hand written addendum, which was found to be an unenforceable testamentary instrument, that stated, "[s]ince my sister ... passed away, I reiterate that all my worldly possessions pass to my brother," the sizable inheritance received by Ms. Aldrich as a result of her sister's death, which was not specifically referenced under the will, passed not only to the named brother, but also to the remaining heirs at law.

Had Ms. Aldrich sought legal counsel, a residuary clause, which would be a default utilized by a competent, experienced estate planning attorney, would likely have been included in her will. In the end, not only did the case seem to result in a disposition of assets contrary to the intent of the decedent, but the litigation likely resulted in attorneys fees and costs that exceeded what would have been spent by Ms. Aldrich had she sought legal counsel to prepare her estate plan.

Don't Be "Penny-Wise and Pound-Foolish" When Creating an Estate Plan – Cont'd

As illustrated in *Aldrich*, trying to save money now may cost more money and lead to unintended results. And, even though many individuals may have a hard time paying for a lawyer, this case illustrates, as observed by Justice Pariente, the old adage of "penny-wise and pound-foolish."

* Sarah J. Schmidt is a Law Student at Regent University School of Law and has worked as a Paralegal, primarily in the area of Estate Planning and Estate Administration.



Chicken Smarts – Part 2

Hook Law Center: Kit Kat, what more can you tell us about chickens and how smart they are?

Kit Kat: Well, there is indeed more to tell about chickens. First of all, they have excellent memories. For example, John Goodwin of the Humane Society-US, recounts how one hen that had been used in cockfighting which he personally rescued, would recognize him whenever he came into a room. She would come to the front of her cage, look up at him, and make clucking noises. His grandmother's pet rooster named Henry always came when he was called.

Also, who would guess that chickens possess mathematical and problem-solving abilities? Chicks as young as 5 days old could recognize place order in a series of 10 objects. Food was placed in a certain position, but when the order was varied, they still came back to the original position looking for the food. In another experiment, several geometric shapes were placed in front of a group of chickens. When the target shape was removed from the lineup, the chickens waited to peck.

More examples could be listed, but you get the idea--chickens are some smart creatures that should never be underestimated. That also means they should be treated respectfully, even if they are destined eventually to have shortened lives and end up as part of the human diet. We owe them a lot.

(Ruthanne Johnson, "Who you calling a birdbrain?" [All Animals](#), May/June 2014, p.32)

Upcoming Events

- Andrew Hook and Shannon Laymon-Pecoraro will be speaking on Financial Exploitation at the Virginia Department for Aging Rehab Center on **May 30, 2014** at 9:00 am.

- Jessica Hayes will be speaking on Hook Law Center's Practice Area's at Westminster Canterbury on **July 1, 2014** at 10:00 am.

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