

Kiplinger

WILLS GONE WILD: HOW TO AVOID ESTATE PLANNING DISASTERS

These wills gone wild may be extreme examples of poor estate planning, but experts explain how easily a will can go to the dogs.



By: Adam Shell - January 27, 2025

Did you say my mom mistakenly left \$3.5 million to the veterinarian who took care of her favorite feline? Let me get this straight: You're telling me Dad's brother took a \$500,000 insurance policy meant for me? Dad left his house to his pets' caretaker and his second home next door to his cats?!

These aren't made-up financial horror stories. These are real-life estate planning nightmares recalled by veteran attorneys who have seen it all.

"This stuff happens all the time," says Patrick Simasko, an estate planning attorney at Simasko Law.

When it comes to money and assets amassed over a lifetime, expect the unexpected "when you don't have your ducks in a row, and you don't have your (estate) paperwork in order," Simasko warns.

No one wants to leave a financial mess for heirs after they're gone. But as these real-life examples illustrate, crazy things can happen if estate planning must-haves like a will or trust are nowhere to be found after you pass.

Wills gone wild

Assets can end up in the strangest places and with dubious heirs if the deceased botched key estate documents. Or failed to update a will after getting remarried or deciding to cut out an estranged child. Or bungled a do-it-yourself online will.

A will and estate planning are often overlooked aspects of financial planning, says Jason Grover, financial planning specialist at Grover Financial Services. But if you want to secure the future of your loved ones, Grover says it's crucial that you properly outline in a will (or trust) how you want your assets distributed after you pass. If there's no will, disputes will no doubt arise among family members and heirs, often causing long-term rifts and expensive legal fights.

"Establishing a will and well-thought-out estate plan is a proactive step that can provide peace of mind, avoid potential disputes, and ensure that hard-earned assets are distributed according to your wishes," says Grover.

To illuminate how things can go very wrong when passing down assets to heirs — and how to avoid these unfortunate outcomes — Kiplinger asked estate attorneys to share real-life tales of estate mayhem.

Rules are rules, but look under the couch cushion

It's important to understand the rules of the game, says John Goralka, an estate planning attorney at Goralka Law Firm. And it's vital, he says, to also know the difference between a holographic will (or a handwritten one that's not legal in all states) and a formal legal will that is typed, signed by you, and witnessed by two disinterested parties. A will, of course, is a legal document that details who you want your assets to go to and how they will be divided up after you pass.

Goralka recalls the recent battle over music icon Aretha Franklin's estate to drive home the importance of having a formal estate plan. The so-called Queen of Soul was a do-it-yourselfer when it came to estate planning. Franklin had two handwritten (holographic) wills found in her Detroit, Michigan, home after her death in 2018. One dated 2010 was found in a locked cabinet. The second one, dated 2014, was found under a couch cushion. Franklin's four sons disagreed over which will was the valid one. In July 2023, a judge ruled in favor of the 2014 will found under a couch cushion.

To avoid any confusion if you go the handwritten will route, Goralka says this type of will must be in your own handwriting, state that it's your last will, and be signed and dated. To avoid confusion, it's prudent to add the phrase "I revoke all prior wills."

"Mistakes can happen," says Goralka. "By saying it's your will (in writing) and signing it, that has significance. If it's not dated, how do you prove the date (you wrote it)? If it doesn't say last will, how do you know it's the last will? You want to prevent things like that from happening."

Crazy pet stories

Often, pets are the pet peeves of heirs, who lose out on assets due to the deceased person's close connection to their furry friends. Sometimes, heirs don't agree with the wishes of the deceased. But if all the i's are dotted and the t's are crossed, they're often out of luck.

Goralka recalls a client who owned two houses next door to each other. While his client was alive, he and his wife lived in one house and the house next door was home to his cats. Per the will, when the client and his wife passed, the estate plan called for the pet's caretaker to live in the main house while caring for the cats in the second home. So, both pieces of real estate were left to dubitable heirs: the caretaker and the cats.

Similarly, another female client set aside all her funds in a trust for her two dogs and arranged for a caretaker to live in her house until her dogs passed away.

Do-it-yourself wills can prove costly

Many people want to save money on estate planning. So, instead of seeing a lawyer, some do their wills online using digital services such as Trust & Will, LegalZoom, and Quicken WillMaker. But, again, in some cases, mistakes can occur, causing costly unintended consequences.

One family opted to go the digital route, and the father intended to pass his assets to his three children equally. "But they basically didn't know what they were doing and wrote it themselves but got the specific language of the will wrong," says Goralka. "Instead of saying the money was to go to his three kids, it said it was to his kids and grandkids. And each of his kids had kids, so that's what they were stuck with just because they were trying to save a few pennies" and not paying for a lawyer.

Second marriages often upend estate plans

Getting married after divorce can complicate estate plans and open the door to unintended outcomes, legal experts say. It's common

for divorced husbands to want everything to go to their second wife after passing, and for the money to then go to his kids when the second wife dies. But often, those wishes are not granted, explains Simasko. When the husband passes, the second wife rewrites her own will and the deceased husband's kids end up with nothing. That's because a surviving spouse can change his or her will at any time.

"It happens every day because they don't understand the rule," says Simasko. "Once the wife gets the inheritance, it's hers to do whatever she wants with it." And, unfortunately, that includes cutting out the (biological) children of the first spouse.

When it comes to estates, "second marriages are always a nightmare," says Simasko. "When one of the spouses dies, the other one's going to change everything. And a surviving husband can do whatever he wants with the inheritance, including giving it to Mary the stripper."

Estranged kids often get passed over, even by pets

Simasko recalls a client who despised her daughter. She had no relationship with her and wanted to leave everything to her cats. But they erred. "Instead of leaving it to the cats, she left everything to her veterinarian who takes care of the cats," Simasko recalls. "Three and half million dollars!" In this case, Simasko arranged for all monies to go to charity after the cats passed away. But the estranged daughter still got nothing.

Caretakers on the take

Not all caretakers are agnostic about money. Simasko recalls two old guys living together with a nurse's help. One suffered a heart attack and was hospitalized. While he was out of the house, the caretaker came over to the house with her husband and had booze-filled "sex parties" with the old gentleman not hospitalized. "And the next thing you know, the caregiver is on (a beneficiary) of a \$500,000 CD (certificate of deposit) and joint owner of a \$500,000 lakefront house," says Simasko. "It's not funny. It's exploitation."

When it comes to financial windfalls after one's death, the biggest fights are over who gets the money, says Simasko.

"You're leaving it to the caregiver and cutting the kids out?" says Simasko. "You're leaving it to your second or third wife or husband and cutting out your adult children?"

Beware of crooked beneficiaries

Make sure you select honest beneficiaries who will do as you wish with the proceeds of the inheritance. Simasko recalls a divorced father who had a \$500,000 insurance policy through workplace coverage intended for his two-year-old son. "He didn't want to leave the policy to his ex-wife, so he named his brother as the beneficiary of the life insurance policy," says Simasko. "Well, the brother got the \$500,000 upon his death, and he kept every dime of the money and the two-year-old got zero."

Says Simasko: "I guess the lesson here is you really can't trust anyone when it comes to money."

Patrick Simasko, principal of Simasko Law, has dedicated his legal career to the practice of elder law. Over the past 20 years, he has helped hundreds of families plan for their futures, protect their assets and receive the financial and medical benefits available to them.

For more information, please call 586-468-6793 or visit www.simaskolaw.com.

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