

Internet Wills: A Cautionary Tale

In the past decade, a number of websites have been created for the purpose of offering individuals quick and inexpensive methods to create seemingly “simple” estate planning documents. While these options do save money in the short-term, such efforts can backfire when the individual has passed away, leaving his or her beneficiaries with expensive litigation necessary to interpret a document that was created without proper legal advice.

A recent case before the Florida Supreme Court, *Aldrich v. Basile* (Fla., No. SC11-2147, March 27, 2014), illustrates the dangers inherent in using pre-printed legal documents. A Florida resident, Ann Aldrich, drafted a will using an “E-Z Legal Form.” She listed her home and all its contents, her automobile, an IRA, a life insurance policy and several bank accounts which were left to her sister, unless her sister, Mary Jane Eaton, predeceased her, in which case the assets were left to her brother, James Aldrich. The will contained no residuary clause to dispose of the residue of Ms. Aldrich’s assets. As it turned out, Ms. Eaton predeceased Ms. Aldrich, leaving her additional money and real estate, but Ms. Aldrich never revised her will to include the newly acquired assets. Later, Ms. Aldrich attempted to make a codicil indicating that as a result of Ms. Eaton’s death, all of her assets should pass to her brother, James, but the codicil was not witnessed by impartial witnesses and was therefore held to be invalid.

After Ms. Aldrich died, her brother asked the court to determine who would inherit Ms. Aldrich’s property. Mr. Aldrich argued that he was entitled to all of the property, but her nieces from a predeceased brother argued that the property should pass by intestacy. The trial court ruled that the property should pass to Mr. Aldrich under the theory that the will should be construed to dispose of all the property that Ms. Aldrich owned at her death. The appeals court reversed this decision and Mr. Aldrich appealed.

The Florida Supreme Court affirmed the appeals court decision, holding that the property acquired after the will was executed would pass by intestacy because of the lack of specific distribution of these assets and the lack of a residuary clause. Justice Pariente concurred, noting that the case was “a cautionary tale of the potential dangers of utilizing pre-printed forms and drafting a will without legal assistance.” As this case indicates, and as Justice Pariente points out so aptly in his concurrence “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.”