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DIS-INHERITING A CHILD

By James E. De Martino, NJ Lawyer

It is possible, under NJ Probate law, to disinherit a child. In doing so, the wording of the Will or Trust must be emphatic.

We strongly advise that in dis-inheriting a child, that one doesn't state an underlying reason in the written text.

Preferred Way:

I specifically dis-inherit my son, John Doe.

Problematic Way:

I specifically dis-inherit my son, John Doe, because he has unilaterally ceased all communications with me for the past five years.

If one states a reason for dis-inheriting a child, a contested NJ probate proceeding may be imminent. In the above example, the dis-inherited child will bring forth any phone bills, e-mails and every conceivable indicia of communication between he and the parent.

In order to circumvent such a challenge, we advise client not to state a reason for dis-inheriting a child.

In lieu of an outright dis-inheritance, some clients prefer to leave said child a bequest of ONE DOLLAR. Once again, we strongly advise against such strategy. If a child is a named beneficiary (albeit for ONE DOLLAR), he/she will be given a "voice" in overall distribution of the estate.

The ONE DOLLAR beneficiary will have the legal right to audit and scrutinize every aspect of the settlement of the decedent's estate. If pertinent paperwork needs to be executed, the aggrieved beneficiary may refuse to do so in a timely fashion.

CONCLUSION: If one wants to dis-inherit a child, then use the "Preferred Way" as stated above.



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