



IN THIS ISSUE

Will Kits:
Cookie Cutter Disasters **1**

Understand Your Home
Insurance Policy **2**



WILLS, ESTATES AND TRUSTS

Will Kits: Cookie Cutter Disasters

Having a will is undoubtedly an essential part of proper estate planning, yet many individuals do not make this a priority. With so many on-line gimmicks proposing quick and easy do-it-yourself will kits, it is not surprising the vast majority of people who use them do not realize the difficulties their loved ones will face as a result. My recent search of the term "will kit" in an on-line database produced search results of 1,848 court cases in Canada!

Will kits are essentially cookie cutter solutions founded on a "one size fits all" philosophy which assumes that everyone's situation is the same. Unfortunately, the standard form pre-printed wording is not tailored to individual needs. Various values, backgrounds, family dynamics and objectives, to name a few, form a broad spectrum of unique factors that should be considered. This means that an interview with a lawyer which includes a thorough fact finding process is essential for will preparation.

Some dangers and inadequacies of will kits include:

1. Failure to properly execute a will would result in the will being invalid;
2. The inability to take advantage of tax savings regarding probate fees;
3. "Savings" from using a will kit instead of a lawyer may be spent hundreds of times over on legal fees

in costly court battles between estranged family members due to ambiguous wording and intricacies in the will.

4. The inability to name specific beneficiaries for different assets within the Estate; and

5. The inability to name guardians and custodians for your minor children.

In *Rudling Estate v. Rudling*, 2007 CanLII 51794 (ON SC), because of some ambiguous wording in the will of Pauline Rudling prepared with a will kit, her two sons wound up spending tens of thousands of dollars in litigation just for the ruling that all expenses of the estate, except the mortgage on the house one brother inherited, had to be shared equally between the brothers.

Besides providing a customized will and advice which comply with Ontario law, a knowledgeable and experienced Wills and Estates lawyer (as opposed to a corporate, immigration or criminal lawyer, etc. who does not specialize in this area) can advise you with respect to financial and tax implications of your will and estate plan decisions. He or she will also know special cases when they see them and ask questions in order to spot red flags that could spell problems in the future.

To discuss your will and estate planning needs, please contact Andrea P. Kelly.



Understand Your Home Insurance Policy

Recently, dozens of home and business owners in Goderich suffered tremendous losses as a result of one of the most severe tornadoes to hit Ontario in 15 years. If you know you would not have the right insurance coverage to rebuild and cover your financial loss after a tornado, fire, flood or other natural disaster were to destroy or damage your home, or you're not sure, maybe now's the time to review your home insurance policy.

There are typically four types of coverage contained in the homeowner's policy:

1. Home and Personal Property:

(a) Dwelling damage coverage helps pay for damage to your home;

(b) Personal property coverage will pay for such items as household furniture, clothing and other personal belongings, usually up to 50% of the policy limit on your dwelling. The coverage only pays the current cash value of the item destroyed, unless you purchase replacement-cost coverage; and

(c) Off-premises coverage covers your belongings against theft even when they are not inside your home. Other structures such as a detached garage, a tool shed or any other

building on your property are usually covered for up to 10% of the amount of coverage on your house.

2. Personal liability coverage applies to non-auto accidents on and off your property if the injury or damage is caused by you, a member of your family, or your pet. The basic liability coverage is usually \$1 million. You can request higher limits for an additional cost.

3. Medical payment coverage pays if someone outside your family is injured at your home regardless of fault. The coverage does not apply to you or members of your household. Medical payments coverage limits are typically \$5,000 for each person.

4. Additional Living Expenses:

If it is necessary for you to move into a motel or apartment temporarily because of damage to your home, your insurance typically pays an amount up to 20% of the policy limit on the dwelling for these expenses.



For tips on reducing your home insurance costs, please see the remainder of this article at <http://www.lfpress.com/homes/2011/08/24/18596676.html>

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