

# Legal Update – Summer 2008 Newsletter

## **Will-Making Software Cannot Replace Lawyers**

Sales of computer software designed to create wills are strong. Because the software is widely available, many people believe that attorneys are no longer necessary to create an estate plan. For many reasons, computer programs are no replacement for sound legal advice.

### **Computer software cannot know your unique situation.**

No two people have exactly the same needs when it comes to drafting a will. The software you choose cannot be equipped for every situation, and many important issues may be overlooked that could affect your estate. For example, if you have minor children, you may need to create a trust as part of your will (a “testamentary trust”) that will preserve your assets until your children are old enough and responsible enough to handle them. This is a complex document that should not be completed on your own, but requires an attorney’s skill.

### **Will software may not follow Ohio law.**

To be valid, a will must meet certain formal requirements. These requirements vary by state. Ohio is very specific about the requirements necessary to make a valid will. Most computer programs do not follow Ohio law. For example, the software you choose may not indicate that you need two witnesses to your will, or that Ohio law gives a surviving spouse certain rights over property that cannot be defeated by a will. These types of things should be explained by a lawyer.

### **Computer software may not provide all of documents necessary for a basic estate plan.**

Most people first visit my office asking only for a will. They do not realize that along with the will, they usually need a Living Will, Health Care Power of Attorney, and Power of Attorney for Financial Matters. If you choose to draft your will yourself, your software either will not include these other documents, or will charge you extra for them. If your software includes them, they too will probably be invalid under Ohio law.

### **Will-making software can in the long-run cost you more than hiring a lawyer.**

Will-making software packages can cost anywhere between \$30.00 and \$300.00. A few things can happen after you have paid for your software:

1. You realize that the finished will is inadequate for your needs, so you end up hiring a lawyer anyway, thus paying for the lawyer’s services *and* the software;
2. A few years after creating the will an important life event occurs that requires an update to your will, so you are forced to purchase the newest version of the software to complete the update; or
3. You never realize that your “do-it-yourself” will did not meet your needs or was invalid under Ohio law, and after your death there are unnecessary expenses to your estate and heartache to your loved ones that could have been avoided.

In short, hire a lawyer for your legal needs. As stated on the Ohio State Bar Association’s website ([www.ohiobar.org](http://www.ohiobar.org)), “No sensible person would engage “just anyone” to fill teeth, take

out an appendix, or adjust a sensitive and complicated instrument. The person who wants these services performed with a minimum of risk to self and property will engage a trained professional person. The drafting of a will requires professional judgment. A lawyer can help you avoid pitfalls and choose the course best suited for your situation.” ■

### **Save the Dream – Get Help if Facing Foreclosure**

The foreclosure crisis is affecting many Ohio families. You probably know someone who lost their home to foreclosure, or you may be struggling to keep up on your mortgage payment. If you are in danger of foreclosure, it is important to get help immediately.

It is never too late to get help. If you are behind on your mortgage payment – or even if you have already received a foreclosure notice – there may be options available.

If you are having trouble paying your mortgage payment, *immediately* contact your mortgage servicer. In most cases, the servicer will work with you. Your mortgage company would rather keep you in your home than suffer a financial loss in the event of foreclosure.

Speak to someone in your servicer’s Loss Mitigation Department. Ask if you can participate in a “work out” resolution or get a loan modification. A “work out” resolution involves resuming payments and arranging to pay the past-due amount over a short period of time. A loan modification might lower your interest rate or extend the final due date of your loan – making your monthly payments lower.

In addition to contacting your servicer, you should **call the State of Ohio’s Save the Dream hotline at 888-404-4674 or visit [www.savethedream.ohio.gov](http://www.savethedream.ohio.gov)**. You will be referred to a housing counselor who can explain your options. If you have already received a foreclosure notice, you will be referred to an attorney who can help with your case. ■