

Making a Will

The young couple, married but two years and having an infant child, were returning home after a family visit in Central New York. Midway on that journey, a car crossed the median and hit them head-on with devastating effects. Both parents and child were rushed to the University Hospital in Syracuse. The father died almost immediately, the mother soon after, and Ryan, the infant son, was still hospitalized for a month although he had been strapped in the back seat of the car. Unfortunately, the young couple did not have a will. The complications because of that lack were enormous.

Both the paternal and maternal families, after many discussions, eventually agreed to work harmoniously in resolving the guardianship issue. If they had not, the state would have quickly placed Ryan in a foster home. The legal aftermath included a relatively brief six-month process after which the judge awarded guardianship of Ryan to a childless couple, his paternal aunt and her husband. However, subsequent legal battles over financial matters extended for several years, were extremely painful for all concerned, and eventually resulted in an unnecessary loss (through taxation) of substantial donations that had been made to the family.

All of that happened about two decades ago. Ryan took his guardian's surname at sixteen, later graduated from high school, and then received an appointment to the Air Force Academy.

Reasons for Postponing

His surrogate parents clearly served well as Ryan's caretakers and guardians. But the lack of a will caused needless tensions, struggles, and conflicts in his early years.

Why did his youthful parents—and why do so many contemporary people—fail to make a will? Four common reasons lead people to postpone this critical task:

1. The hectic pace of modern society

Countless individuals state that time is the most precious commodity in their lives. There are not enough moments in a day to accomplish what these persons judge they need and wish to do. Work and family duties, volunteer service, recreational activities, and any number of other tasks consume all their waking hours. Making a will may lurk in the back of their minds as a desirable goal, but it is not considered an immediate necessity and quickly yields to more pressing responsibilities.

2. A misconception of cost and complexity

As we will see, preparing a will is generally a very affordable and relatively simple project. However, many harbor a false notion that the undertaking will be costly and complicated.

3. An unwillingness to face mortality

Few people are totally comfortable speaking about death in general or their own demise in particular. Our culture reflects that uneasiness. We speak of people “passing away,” not dying. We cover the dirt at a graveside with a green rug. Patients and families often deny the presence of a terminal disease. Preparing a will is a sobering, though satisfying experience. We are facing the fact that sooner or later we will die. The when and how is unknown, but our eventual death is certain. Preparing a will forces us to face our mortality. However, doing so does not hasten our death or mean that we are about to die!

4. A reluctance to resolve the difficult decisions connected with a will

There are many judgments, difficult or at least perceived as difficult, that must be made when preparing a will. Who will be named in it? How do we divide our possessions? What arrangements should we make for the children in case we die before they reach adulthood? If we haven't come to grips with these issues, why contact a lawyer?

Cost and Complexity

For an average middle class person, the lawyer's standard fee for a will ranges from \$100 to \$250. For some will specialists that amount may rise to \$500. But for most attorneys, preparing a will is simply a service to clients and not a profit-making venture. If an individual possesses considerable wealth and significant assets (e.g., houses, collectibles, investments), the complexity and cost will probably be much greater. Persons concerned about the expense of having a will drawn up should telephone prospective lawyers with an up-front question about the approximate total cost.

In our technologically advanced world of electronic communications with ready access to fax, Internet, and e-mail, much of the will-making can be done at home or over the telephone. Only a single personal visit to the lawyer's office may be necessary to finalize the document and sign it before witnesses. It is generally a wise decision, for many reasons, to file the original, signed will in the lawyer's office for safekeeping. The attorney will provide the client with adequate copies for later distribution to appropriate people.

Major Concerns

There are usually four major concerns or issues that preoccupy persons who begin the process of making a will.

1. Future care of the children

Those making wills are most often concerned about their offspring's welfare in the possibility that either or both parents might die prior to their children reaching independent adulthood. This includes providing financial support to a guardian or caretaker and college education expenses. These may be extremely delicate decisions. For example, why choose this person as guardian or trustee instead of someone else?

2. A preference for bloodline distribution

The divorce rate, which is close to 50 percent in the United States, has intensified this concern among people preparing their wills. People making out wills frequently express their wish that money or assets be distributed among the children or grandchildren and not to spouses of their offspring. For example, a son or daughter marries, has children, and then divorces. Many, perhaps the majority, of will-makers explicitly desire that their children (and grandchildren) receive the bequests, not their daughters-in-law or sons-in-law, due to the potential of future divorce. One does not want to encounter the inconvenience and additional cost of revising a will every time there is marital discord among descendants.

3. Equal treatment of all heirs

The will expresses in words only the final decisions of the person making the will. It does not normally explain the rationale behind them. Nevertheless, those preparing their wills are usually anxious to treat all heirs equally and fairly and to avoid their survivors having to wonder, "Why so much for this individual and less for another?"

4. The desire for unexpected elements to be understood and implemented

The opening of wills can produce many surprises. To illustrate, people may not suspect that the deceased possessed such wealth, or designated a charity as the recipient of some

huge amount, or divided the inheritance unequally among the children. Moreover, a change in the original will can be a source of tension or annoyance on the part of survivors. Those making wills are anxious for their wishes to be clearly stated so that survivors will understand and precisely follow their desires.

Benefits

As I mentioned earlier, my own experience in dealing with these end-of-life issues, including the re-design of my will, was sobering, but peace-giving and very satisfying. A veteran attorney I know, after preparing many wills, has often heard reactions similar to mine: "I now feel at peace." "It was not so bad." "Now I don't have to think about these things anymore."

Quite interestingly, during the first two weeks of January, lawyers receive an unusual number of telephone inquiries, more than at any other time of the year, indicating the callers' desire to make their wills. They are fulfilling New Year's resolutions, probably made a few times before but never implemented. Of course, a will insures that what happened to Ryan in the aftermath of his parents' sudden, tragic death will not be repeated.

Sample Living Will

I, (your name)_____, being of sound mind, make this statement as a directive to be followed if I become permanently unable to participate in decisions regarding my own medical care. These instructions reflect my firm and settled commitment to decline medical treatment under the circumstances indicated below:

I direct my attending physician to withhold or withdraw treatment that merely prolongs my dying, if I should be in an incurable or **irreversible mental or physical condition with no reasonable expectation of recovery**, including but not limited to: **(a) a terminal condition; (b) a permanently unconscious condition; or (c) a minimally conscious condition in which I am permanently unable to make decisions or express my wishes.**

I direct that my treatment be limited to measures to keep me comfortable and to relieve pain, including any pain that might occur by withholding or withdrawing treatment.

While I understand that I am not legally required to be specific about future treatments, if I am in the condition(s) described above I feel especially strong about the following forms of treatment:

(Cross out any statements that do not reflect your wishes)

I do not want cardiac resuscitation.

I do not want mechanical respiration.

I do not want artificial nutrition and hydration.

I do not want antibiotics.

However, I **do want** maximum pain relief, even if it may hasten my death.

Other instructions: *(Add here any additional directives you want followed.)*

These directions express my legal right to refuse treatment, under the laws of this state. I intend my instructions to be carried out, unless I have rescinded them in a new writing or by clearly indicating that I have changed my mind.

(Sign and date the document and print your address.)

Signed _____

Date _____

Address _____

Witnessing Procedure

I declare that the person who signed this document appeared to execute this living will willingly and free from duress. He or she signed (or asked another to sign for him or her) this document in my presence.

(Witnesses must sign and date this document and print their addresses.)

Witness 1 _____

Address _____

Witness 2 _____

Address _____

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A Comforting Farewell

A man in his fifties had recently suffered a heart attack. When the local parish offered an evening session on caring for the seriously ill and preparing the funeral liturgy, he and his wife decided to attend. About a year later he and his family were at their summer lakeside home. In the late afternoon, his ten-year-old daughter with her cousin asked to go out in the rowboat for a short while. The father agreed, but cautioned them not to go too far from the shore. He remained there watching the two girls. A speedboat pulling a water skier rapidly approached the area and passed the two youngsters. The skier fell and the boat turned to pick him up. Tragically, the driver didn't notice the small rowboat, crashed into it, and instantly killed both children.

The next day, a very sensitive funeral director and the parish priest sat around a table with the stunned and stricken family discussing burial arrangements. After a half hour of working out some details, the wife, remembering that earlier session and still having a booklet for preparing the funeral Mass, suggested that the priest, also a family friend, read one of the biblical passages from it. When he hesitated because of tears streaming down his own face, the father picked up the booklet, glanced through the scripture readings and read an excerpt from 1 Thessalonians (4:13–18) about hope, faith, and resurrection. The grief-stricken man concluded with these final words of that section, "Therefore, console one another with these words." They later decided to use this passage as one of the biblical texts for the funeral Mass and also had it printed on the back of their daughter's memorial card.

San Antonio Parish in Port Charlotte, Florida, not only takes impressive care of its homebound parishioners, it also encourages members to pre-plan their funeral arrangements. Since many are elderly and are transplants from other areas of the

country, their children and relatives often live at great distances from them. Having decisions about the church service and burial done in advance greatly alleviates the stress and difficulties for survivors when death finally comes. The parish has a form to facilitate the process. It keeps the complete document on file and recommends that copies be sent to the closest relatives and to the funeral director(s) of choice. Sometimes two funeral directors are involved if burial will be in a place at some distance from where the funeral takes place.

Encouraged Participation

Prior to the Second Vatican Council, the parish church provided funeral services, with the rite frequently called a Requiem Mass. However, the surviving family members had only minimal input into the liturgical celebration. Most often, the texts and ceremonies were standard and nearly identical for each funeral. That changed radically with the publication of the Order of Christian Funerals in the early 1970s.

This revised set of rites provided a rich variety of prayers, readings, and blessings from which to choose. It also explicitly urged, in its introduction, that family members of the deceased be actively involved with planning and participating in the funeral liturgy.

Whenever possible, ministers should involve the family in planning the funeral rites: in the choice of texts and rites provided in the ritual, in the selection of music for the rites, and in the designation of liturgical ministers.

Planning of the funeral rites may take place during the visit of the pastor or other minister at some appropriate time after the death and before the vigil service. Ministers should explain to the family the meaning and significance of each of the funeral rites,

especially the vigil, the funeral liturgy, and the rite of committal.

If pastoral and personal consideration allow, the period before death may be an appropriate time to plan the funeral rites with the family and even with the family member who is dying. Although planning the funeral before death should be approached with sensitivity and care, it can have the effect of helping the one who is dying and the family face the reality of death with Christian hope. It can also help relieve the family of numerous details after the death and may allow them to benefit more fully from the celebration of the funeral rites (OCF, #17).

An Essential First Step

During the past forty years as a pastor in three different parishes—a small-city faith community, a large suburban church, and a center-city Cathedral—I found that the critical step to facilitating a family's participation in the funeral liturgy is an immediate visit to the survivors home upon learning of a death. The people present are usually and quite understandably filled with all types of emotions—shock, grief, anger, confusion, doubts, worry, and guilt. For the priest just to be there at that initial time, to listen and to empathize, is in itself an invaluable pastoral ministry. Sometimes he will be asked to assist the stricken family members with some practical tasks or needed decisions.

Eventually I gently try to turn their attention to the funeral liturgy, bringing with me a twenty-five minute video, *Death and Life*, and a booklet, *Through Death to Life*. The video first describes the funeral Mass and then outlines ways in which the family can participate. The latter repeats those possibilities, but also includes the many options for prayers, readings, and

blessings available in the ritual and a tear-out selection form. I leave both items with the family.

In their troubled condition, family members often hardly hear what I am saying. I reassure them that the vigil service or wake and funeral Mass will in themselves be a great source of comfort, understanding, and strength, even if they choose not to take an active role in their preparation and celebration. I also tell them that after things settle down a bit, they may wish to watch the film and glance at the booklet. I mention that those who do engage in helping prepare the liturgical celebrations tend to find that it actually helps them cope with their loss and grief. Nevertheless, if they choose not to get involved in either the preparing or participating as ministers, this is certainly acceptable.

Before leaving, we work out a time, usually before or after calling hours, when I can visit with them about specific details of the funeral Mass. In my experience, most families, once the initial trauma has subsided somewhat, will at least pick up the booklet and make several selections. Others will become more deeply involved, using most of the alternatives listed below.

Practical Possibilities

- *Passages from the Bible:* The funeral rite lists more than seventy scripture readings available for a funeral service with or without a Mass. The booklet *Through Death to Life* contains all of them. The surviving family members may select three: one from the Old Testament, one from the New Testament, and one from the gospels. Or they may select two: one from either the Old or New Testament and one from the gospels. They may also wish to ask family members, relatives or friends to read the Old and New Testament passages at the service. The priest or deacon proclaims the gospel reading that the family members have chosen.

- *Funeral Homily*: The priest or deacon will give a brief homily based on the family's choice of the scripture readings. While it is not meant to be any kind of eulogy, the homilist will nevertheless find it helpful to speak beforehand with some family members about the deceased's life so he can better integrate those particular texts and the reasons for their selections into his message.
- *Prayers and Blessings*: There are also numerous prayers and blessings such as forty-eight Opening Prayers from which loved ones can choose a favorite.
- *Music*: Very often the family working with the parish musician selects appropriate songs or other melodies that speak to them of the deceased and of their belief in the resurrection.
- *General Intercessions or Prayers for the Faithful*: The Order of Christian Funerals includes nine samples. The family may use any one of these formulas, combine parts of several, adapt the intentions provided, or compose petitions that are entirely their own. If they create their own, the petitions should express the congregation's prayerful concern for others in the world. These would naturally include the deceased and the bereaved and should also reach out to persons in the local, national, and global communities who are in need of support.
- *Participation Booklets*: Many parishes today work with the family to develop leaflets, also personalized, which will assist persons who participate in the service itself.
- *Placing of the Pall*: A funeral pall, reminding us of the garment given at baptism and therefore symbolizing our life in Christ, is draped over the coffin at the beginning of the liturgy. Family members or friends are encouraged to do this, although the priest or another minister of the service may