

Preparing Your Own Will



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IMPORTANT NOTICE: READ THIS INFORMATION BEFORE USING ANY PART OF THIS PUBLICATION

This booklet is a general summary of the law. It is not meant to completely explain the subjects in this booklet. **IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE.**

The information in this booklet was correct as of the date it was printed (12/2016). The laws may have changed. **DO NOT ASSUME THAT THE INFORMATION IN THIS BOOKLET IS NOW CORRECT.**

You should see a lawyer to get complete, correct, and up-to-date legal advice. Do not rely on the general information in this booklet for your specific case.

If you need a lawyer but can't afford one, contact Nevada Legal Services. You may be able to get free legal help.

AS YOU READ THIS BOOKLET, REMEMBER IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE

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Introduction

Having a will can make it easier for your family and loved ones to handle your property when you die. Some people with a small amount of property can write their own wills. This booklet is to generally inform about wills and to help some people write their own “simple” wills.

People should not write their own wills if they:

1. Have a large amount of property;
2. Wish to leave property in trust;
3. Have enough property that special taxes may be owed;
4. Have a hard time understanding this booklet;
5. Think their will may be contested after their death;
6. Are leaving property to minor children;
7. Want to exclude a spouse or child from receiving any part of the estate;
8. Have questions about their property (status of title, value, etc.);
9. Have property located outside of Nevada; or
10. Have questions not answered by this booklet.

This booklet tells how to prepare a simple will. It does not deal with probate. “Probate” means a formal court proceeding to decide if a will is valid and the process of administering an estate. The following kinds of probate questions should be discussed with an attorney.

Is it likely my estate will need to be probated?

What is involved in probate?

How long does probate take?

What are the costs of probate?

Probate can often be avoided if:

1. Persons who are to get property agree on the distribution of the property if there is no real estate and the value of the estate is less than \$25,000; and
2. All bills and debts are settled or paid; and
3. No real estate is involved or it is held in joint tenancy with right of survivorship; and
4. Beneficiaries are named for insurance policies and bank and investment accounts.

This is a very general statement. If you have any specific questions, ask a lawyer.

This booklet is based on 2016 Nevada law, and should only be used by Nevada residents whose property is located in Nevada. NO PERSON SHOULD WRITE A WILL BEFORE READING THIS ENTIRE BOOKLET

What is a will?

A will is a formal statement telling how to dispose of your property after you die. In addition to disposing of property, your will can contain other instructions. For example, a will may say who you want to care for your minor children.

The person writing the will is called the **testator**. Nothing happens under a will until you die. You can give away or sell your property at any time before death, even if the will says it goes to someone else. You can change or revoke your will during your life as long as you are mentally able.

Why have a will?

A will has many planning advantages. **First**, a will lets you choose who will get your property and how much each will get. If you do not have a will (intestacy), state law will distribute your property. If this happens, your property may not go to whom you want. Note that a will only distributes your property if you have not arranged for it to be distributed in some other way, such as in a trust or by naming someone as a joint owner or a beneficiary.

Second, a will lets you name who you want to carry out your wishes. This person is called the “executor” and should be a person you can trust. If you do not appoint an executor, the court can appoint someone. The executor does not need to have a business background or special legal knowledge. Your executor can hire a lawyer or accountant to help settle the estate. Your estate will pay for these services.

Third, a will can give special powers to your executor. Special powers can help save money. For example, special powers can allow the executor to take advantage of all possible tax breaks and allow the executor to act without first obtaining court approval.

Fourth, if you have minor children, a will lets you say who you want to be their guardian. It also permits you to nominate a conservator or trustee to protect the property interests of young or disabled children. See a lawyer if you have questions about using a will to name a guardian or conservator or to establish a trust.

What if you do not have a will?

Many people do not have a will. If you die without a will, Nevada's "intestacy" laws apply to property included in your "estate." As noted earlier, your "estate" does not usually include jointly-owned property, property in a trust, or property for which you name a beneficiary. These laws are applied regardless of what your wishes may have been. If you do not have a will, Nevada's intestacy laws would distribute your estate as follows.

Community property is all property acquired after marriage by either husband or wife, or both, unless otherwise provided by: An agreement in writing between the spouses. A decree of separate maintenance issued by a court of competent jurisdiction. A decree issued or agreement in writing. NRS 123.220.

- If you are married, then your spouse will receive all existing Community property. NRS 134.010; NRS 123.250.

Separate property is all property of the husband or wife owned by him or her before marriage, or that was acquired by him or her after marriage by gift, bequest, devise, descent or by an award for personal injury damages, with the rents, issues and profits thereof, is his or her separate property. NRS 123.130.

The separate property of a person who dies without a will is distributed as follows:

- If the person has a spouse and one child, each gets half. N.R.S. 134.040(1).
- If the person has a spouse and two or more children, the spouse gets a third. The other two thirds go to the children in equal shares, except that if one of the children has died, but left descendants, the descendants take the dead child's share. N.R.S. 134.040(2).
- If the person leaves a spouse, no descendants, and at least one parent, the spouse gets half and the other half goes equally to the two parents, or all to the surviving parent. N.R.S. 134.050(1).
- If the person leaves no descendants or parents, but is survived a spouse and siblings (brothers and sisters), one half goes to the spouse and the other half goes in equal shares to the siblings. N.R.S. 134.050(2).
- If the person leaves no spouse or descendants, everything goes to the parents or the survivor of them. N.R.S. 134.050(3).
- If the person leaves a spouse, but no parents, descendants, or siblings, the spouse gets it all. N.R.S. 134.050(4).
- If the person leaves no spouse, parents, or descendants, then it all goes to the siblings, or if a sibling has died to that sibling's children. N.R.S.134.060.
- If you have no spouse when you die, then all of your property will go to your children in equal shares. If a child has died, that child's children will share the child's share, and so on down the line. If you have no descendants, then your estate goes to your parents. If you have no living parents, then the estate goes to your parent's closest descendants; i.e., first your siblings, then your nieces and nephews, etc. If there are no such relatives, then the estate goes to your grandparents and down from there. If you have none of these relatives, then your estate goes to the descendants of your deceased spouse.

- If there are no such descendants, then your estate goes to the state of Nevada. NRS 134.110.

Who can make a will?

Any person of full age and sound mind can make a will. To be of full age, you must either be more than eighteen (18) years old. NRS 133.020.

Generally, the factors that determine sound mind or mental capacity include, but will ultimately be decided by a Judge if a will is challenged.

- Knowledge and understanding of the nature and amount of property you own;
- An understanding and an ability to remember the people who are close to you and who may have a claim to property under your will;
- An understanding that you are making a will; and
- Freedom from any delusions or hallucinations.

Who should not make their own will?

Some people should not make their own will. You should **NOT** make your own will if you:

- Wish to leave property in trust.
- Are leaving property to minor children.
- Have an estate with complicated tax issues.
- Have difficulties understanding this booklet.
- Want to exclude your spouse or children from receiving any part of your estate.
- Have questions about your property (status of title, value, etc.).
- Are married and do not know the location of your spouse.
- Have questions not answered by this booklet.
- Think your will may be contested after your death.
- Have any doubts about your mental capacity to make a will.

Will your estate be taxed?

The taxation of your estate is a complex area of the law. The transfer of estate property may be subject to a federal estate tax. However, each of these taxes provides certain exemptions and deductions. As a result, some estates are not taxed at the federal level.

- **State Inheritance Taxes**

The state of Nevada does not collect **estate tax** at a state level, nor does it collect state **inheritance tax**.

- **Federal Estate Taxes**

The federal government does not impose any tax on the portion of a deceased person's estate that goes to their spouse. The portion of an estate that goes to persons other than a spouse may be subject to federal tax if it exceeds \$5,250,000 (this amount changes but was correct at the time this booklet was printed). If your property is now worth more than \$5,250,000, or if it may be worth more than that **at the time of your death**, you should **NOT** write your own will.

How To Make Your Own Will

A will can be typed or handwritten. If the will is handwritten, it should be in ink. A will should be written or typed on clean sheets of paper. It is important for you to **clearly** set out your wishes. Your will should not have eraser marks or cross-outs. A court may interpret erasures and "cross-outs" as someone else's attempt to change your will without your consent. You should re-type or rewrite the will if you make an error. Take the time to get it perfect! Throw away all except the final draft.

What To Include In Your Will

Some common will clauses include those listed below. (A sample will is provided at Appendix C of this booklet.)

Title. Most wills start with the title at the top of the page. Simply say "Last Will and Testament of (fill in your name)."

Introduction and Publication Clause. The first clause should identify you as the maker of the will. It lets people know that you intend the document to be your will. This clause also normally includes the city and state in which you live, as well as any other names or nicknames by which you have been known. It should also say that you are of sound mind and are preparing this will voluntarily. The first clause should also say you are revoking all wills or codicils (amendments to wills) which you have previously signed.

State important names. You should include the name of your spouse, your children or any other important individual that may receive property and be referred to in your Will.

Payments of debts and funeral expenses. Many persons include a clause in their will providing that final debts be paid before property is divided. Debts could be

expenses of your last illness, funeral costs and probate costs. By law, your debts must be paid before any other distributions.

Who gets what. The next clauses should say who should receive your property. You may give real property (land, buildings, and crops), as well as personal property, (money, jewelry, furniture) to specific persons. If you want to limit ownership to less than full title to the property, (for example, if you want to allow someone to have control and use of property for their life) then you should NOT prepare your own will. (Remember, if you own property jointly, name a beneficiary to receive property, or place property in a trust, it will not be distributed under your will.)

• **Your children**

Nevada law does not require that you leave anything to your children. If you leave your children or someone else out of your will who most people think would deserve or expect a share, you should specifically name that person and that you intended for him or her to receive nothing. If you do not follow this procedure, the person left out may try to challenge or “contest” your will on grounds that you simply forgot about them.

Ways to give your property away. It is important to use clear language to express your intent. If you give all your property to one person, you may make a general statement that the person is to receive “all of my property.” If two or more persons are to share in your estate, you can state the specific property that each are to receive or the dollar or percentage amount to be given to each. If you want all the persons to receive the same amount, you can say your property is to be distributed to the named persons “in equal shares.” Any combination of the above disposal techniques may also be used.

If you want only the named individual to receive certain property, you must say that the named individual must survive you. Example: “I direct that my mother’s diamond wedding ring with gold setting go to my brother, Andrew T. Johnson, if he survives me.” If the person dies before you, your will can say that the property be left to another person. The will could also specify that it pass under the residuary clause, (see explanation below). As a general rule, if your will does not state that a named individual must survive you to receive property, then the property will go to that person’s surviving children or other descendants. (NRS 133.200). If you leave specific property in your will that you no longer own at death, that provision will not be effective. For example, suppose your will leaves your 1965 Mustang automobile to John Smith, but you end up selling the Mustang and buying a different car before you die. If this happens, John Smith will not receive the Mustang since you no longer own it. You must thus carefully consider the types of gifts you intend to make in your will. For instance, in the example above, you may want to leave your “car” instead of your “1965 Mustang.”

Use of a Written List. Your will may refer to a written statement, letter, or list of certain items of tangible personal property which are to be given to certain people. Nevada’s law allows you to change those statements, letters, or lists from time to time without making a new will, as long as the lists are specifically referred to in a will. This is a very useful feature because it allows you to change your distributions of property like jewelry, cars, tools, furniture and mementos without having to redo your will. NRS 133.045 (See Appendix E for Sample List)

Residuary Clause. A residuary clause is a catch-all clause. It distributes any property which has not specifically been disposed of under other paragraphs of the will. This clause will ensure that you have not forgotten some property. It will cover property which you acquire after making the will and therefore not mentioned in the will. **All wills should contain a residuary clause.** A general statement that the remainder of your estate goes to a specified person or persons is sufficient. As discussed previously, if you want named individuals to be alive in order to receive the distribution, you will need to specifically say this. Otherwise the distribution will go to the surviving children or other surviving descendants of the named person, unless the named person is your spouse.

Appointment of an Executor. In a separate paragraph of your will you may name a friend or relative as your executor. Some banks also have trust departments that can serve as an executor. Before naming a bank as executor, however, you need to find out if the bank performs that kind of service. Under Nevada law your executor is entitled to receive a fee, but it is often waived when family members serve. NRS 150.010. The fee is set by the NRS 150.010 and a Executor is entitled to a statutory fee of 4% on the first **\$15,000** of the estate, 3% on the next **\$85,000** in value, and 2% on anything over that. For estates over **\$100,000** that comes out to a fee of **\$3,150** on the first **\$100,000** and 2% on anything over that.

Some people also name an alternate executor in case their first choice is unable to serve. The person you appoint should be willing to perform the duties of executor. Be sure to discuss the matter with the person you wish to appoint.

People often choose executors who are capable and trusted. If you choose someone you trust, you may save your estate the expense of a bond. A bond helps ensure an executor is trustworthy. A Nevada law requires a bond unless you specifically waive it in your will.

Testimonium clause. After you have completed the above provision, a “testimonium” should be made. This clause is a brief statement that you signed the will freely and voluntarily. You might, for example, say “I have signed my name this _____ day of _____, 20____, as a free and voluntary act for the purposes set out in this will, in the City of _____, County of _____, State of Nevada.”

Testator’s signature blank. Directly beneath the testimonium clause should be a place for you to sign the will. NOTE: the individuals who will be acting as witnesses must be present for and together observe your signing (“execution”) of the will.

Testator’s initials on any page(s) not signed. The testator should initial each page not signed simply because it’s too easy for someone to change a will and insert a new page.

Attestation clause of witnesses. Witnesses to a will must state they have witnessed the signing of the will in the presence of one another and at the request of the testator. The form of the statement can vary. It should be placed on the same page and directly below the space provided for your signature. The witnesses’ statement (attestation clause) might read as follows (NRS 133.050(2):

State of Nevada }
 }ss.
County of.....}

(Date).....

Then and there personally appeared and, who, being duly sworn, depose and say: That they witnessed the execution of the foregoing will of the testator,; that the testator subscribed the will and declared it to be his or her last will and testament in their presence; that they thereafter subscribed the will as witnesses in the presence of the testator and in the presence of each other and at the request of the testator; and that the testator at the time of the execution of the will appeared to them to be of full age and of sound mind and memory.

.....
Affiant

.....
Affiant

*Subscribed and sworn to before me
this day of the month of of the year*

.....
Notary Public

Blank lines should be provided where each witness can sign his/her name and record his/her address. Either two or three sets of lines should be provided, depending upon the number of witnesses you have selected. A minimum of two witnesses is required in Nevada.

Self-proving affidavit. You should also prepare a sworn statement (an “affidavit”) for you (the testator) and the witnesses to sign to possibly avoid the necessity of the witnesses having to go to court after your death to testify to the procedures followed in signing and witnessing the will. This is **critically** important to help ensure the will is enforceable. The affidavit is made under oath and must be signed in the presence of a notary public. (NRS 133.055) (See Appendix D for a sample affidavit).

Page numbers. Each page of a will should be numbered. This avoids possible confusion if pages of the will become separated. For absolute clarity it is good to indicate the total number of pages as well as the page number. For example, “Page 2 of 3” if your will consists of three pages.

Signing or Executing Your Will

Choosing your witnesses. Nevada law requires that each will be witnessed by two persons. Witnesses must be competent. NRS 133.040. It is best to use neighbors, friends or other people you know as witnesses. Do **not** use any person who would receive property under the terms of the will. Other people that are not recommended as witnesses are persons unable to understand or remember the signing of the will, elderly people, out-of-state people, and people who travel a lot or are generally hard to find. Such people may not be around to testify if necessary.

Signing. Once you have all your witnesses together in one room, you are ready to sign the will. The testator and the witnesses will be signing the will in two places: once at the end of the body of the will and once after the self-proving affidavit.

You, as the maker of the will, should announce to all the witnesses that:

- The document before them is your last will and testament, and

- You are requesting them to be witnesses. (Witnesses do not have to read your will or know its contents.)
- You should then sign and date your will on its last page in the presence of all the witnesses. Show each witness your signature and then have each witness sign the will in your presence and in the presence of the other witnesses. All signatures must be on the same page of your will, and should be written in ink. The signing requirements are very important and should be strictly followed. You should also sign and have the witnesses sign the self-proving affidavit in the presence of a notary public at this time.

Changing Or Revoking Your Will

Once you have made a will, you should review it periodically for possible changes. You should consider changes to your will when the following events occur:

- You change who you want to inherit your property.
- You get married or divorced.
- A child, grandchild or other person whom you might wish to make a beneficiary is born, adopted, or reaches the age of majority.
- A spouse, child, or other beneficiary of your will dies or has a serious illness.
- You have a substantial change in the size of your estate.
- You acquire property in another state.
- Tax, property, probate or trust laws change.
- You move to another state.

To change your will, you cannot simply write in the changes or cross out parts of it. If you do this, all or part of your will may be voided. However, you have several choices as to what you may do.

You might want to revoke the entire prior will and write a new will. To revoke a will you can tear it up, or otherwise destroy it. A new will can then be written by following the procedures in this booklet.

Executing a new will can also revoke the prior will and codicil simply by stating in the new will that you are revoking prior wills and codicils.

If you do not want to revoke the entire will, but want to change parts of it, you may want to prepare and sign a codicil. A codicil is a supplement or amendment to a will. Its purpose is to change an existing, validly executed will.

The codicil should be titled as a codicil and should identify the will which it is changing. This can be done by referring to the date of the prior existing will. The codicil should then list all changes to be made. The codicil should then be signed and witnessed using the same procedures as those for signing and witnessing a will. It is important to keep the codicil with the will it is supplementing. A sample codicil is provided at Appendix F of this booklet.

Remember, if you get divorced, remarry or have children, you should change your will to reflect the changes. Marriage or divorce can result in revoking or voiding part or all of

your will. For example, any provisions in your will in favor of your ex-spouse are revoked when the divorce is final. (NRS 133.115).

Additionally, if a person marries after making a will and the spouse survives the maker, the surviving spouse is entitled to the same share in the estate of the deceased spouse as if the deceased spouse had died intestate. (NRS 133.110(2)(a)).

Where To Keep Your Will

There are a number of places to keep your will. You may keep it with your other personal papers; a fire-proof box may work best. You may leave it with a child, friend, or the person named as executor. You might wish to leave it with the clerk of probate court. Many people put their wills in their safe deposit box. This may not be a good idea unless someone you trust will be able to easily access the box after your death. Wherever you put it, make sure that the place is accessible and that you tell one or more people where it is. If you have copies of your will, each copy should give the location of the original will.

If You Lose Your Will

If you lose your will, make another one. Do not assume a lost will is going to magically appear upon your death. Iowa law presumes that a lost will has been destroyed by the testator with the intention of revoking the will. If it is not found, your property will be distributed as if you never had one.

Conclusion

It is possible for a person to prepare his/her own will, however it is not always advisable. You must make certain that you have first read and understand all parts of this booklet. In addition, be certain to closely follow the instructions in this booklet. If you do have problems or do not understand any part of this booklet, contact your attorney.

If you follow these simple steps, you can prepare a simple will. Completing the project will give the peace and comfort of knowing you have planned for the future.

APPENDIX A – CHECKLIST

Here is a checklist to use to prepare and sign your will.

YES NO

- ___ ___ 1. Did you read this entire booklet?
- ___ ___ 2. Did you understand all sections of this booklet?
- ___ ___ 3. Will your estate be small enough at your death to avoid federal estate tax consequences?
- ___ ___ 4. In preparing the will did you use a pen, typewriter, or computer?
- ___ ___ 5. In preparing the will did you use clean sheets of paper without other markings?
- ___ ___ 6. Did you state that the will revokes all other wills and codicils made by you?
- ___ ___ 7. Did you identify yourself in the will by giving your full name and address?
- ___ ___ 8. Did you express your intent that the document be your will?
- ___ ___ 9. Did you name an Executor?
- ___ ___ 10. Did you dispose of all your property through provisions in the will?
- ___ ___ 11. Did you write the will without any errors or erasures?
- ___ ___ 12. Did you include a testimonial clause as referred to on page 10 of booklet?
- ___ ___ 13. Did you ask at least two competent individuals to act as witnesses?
- ___ ___ 14. Did you declare the document to be your will in the presence of all the witnesses?
- ___ ___ 15. Did you sign the will in the presence of all the witnesses?
- ___ ___ 16. Did you include an attestation clause as described on page 10 of this booklet?
- ___ ___ 17. Did all the witnesses sign the will in your presence and in the presence of each other?
- ___ ___ 18. Did the witnesses include their addresses?
- ___ ___ 19. Did you number the pages of your will?
- ___ ___ 20. Did you prepare a self-proving affidavit as described on page 11 of this booklet?
- ___ ___ 21. Did you sign the affidavit in the presence of the witnesses and a notary public?
- ___ ___ 22. Did you place the signed will in a safe place where your survivors will find it?

APPENDIX B – TERMS

Administrator: If you die without a will, the person appointed by the courts to act as your personal representative in paying your debts, filing necessary tax returns and otherwise administering your estate.

Anatomical Gift: The grant or gift of either specified body organs or of the entire body for use in medical transplants or for scientific study.

Attestation Clause: A statement in a person's will setting forth the act of witnessing the will and describing the procedures used in signing and witnessing.

Bond: The sum of money set aside to guarantee the proper administration of an estate or an agreement with a bonding company (similar to an insurance policy) for the company to cover losses to the estate resulting from improper administration.

Codicil: An amendment or an addition to a will.

Execution: In Iowa, the act of signing a will in the presence of at least two witnesses and the witnessing of the testator's signing.

Executor: A person named in the will and appointed by the Court to be the personal representative of the testator and responsible for the administration of the estate.

Heirs: The persons who will succeed to the deceased person's property upon death, if a person dies without a valid will and property passes through intestacy law.

Intestacy: An estate left by a deceased person where no valid will has been made resulting in the deceased's property being distributed under state intestacy law.

Maker: The person who executes the will.

Publication Clause: The statement in a will declaring the will as a person's Last Will and Testament.¹⁶

Residuary Clause: A statement in a will intended to dispose of all property which has not been distributed by other provisions in a will.

Revocatory Clause: A statement in a will declaring that all wills and codicils previously executed are void upon the execution of the new will.

Specific Bequest: A statement in a will leaving specified items of property to named individuals or organizations.

Testator: A person who has made a will.

Testimonium Clause: A statement in a will by the testator that he/she has signed a will in the presence of witnesses.

Will: A written document setting forth a person's wishes for the division of his/her property upon death, signed in accordance with the provisions of state law.¹⁷

APPENDIX C - SAMPLE WILL

Last Will and Testament of JOAN E. SMITH

I, JOAN E. SMITH, presently residing at 924 East 14th Street, Fernley, Nevada, being of sound mind, do voluntarily declare this instrument to be my Last Will and Testament, and I hereby revoke all prior Wills and Codicils executed by me.

At the time of the execution of this Will, I am married to JAMES H. SMITH and all references in this Will to my spouse are references to JAMES H. SMITH. My children are ROB SMITH and ALICE SMITH. I have no other children living or deceased, natural or adopted.

All references to “my children” are to all of the children identified in this Section, and any children born to or adopted by me subsequent to the execution of this Will.

ARTICLE I - Disposition of Property.

Specific Bequests. I direct that my mother’s diamond wedding ring with gold setting go to my brother, Andrew T. Johnson. If this beneficiary does not survive me, the ring shall be distributed with my residuary estate.

ARTICLE II. - Disposition of Residuary

Residuary Estate. I give the rest, residue and remainder of my estate, whether real, personal, or mixed, to my spouse, JAMES H. SMITH. If my spouse predeceases me, I direct that his share be distributed in equal shares to my children, ROB SMITH and ALICE SMITH. In the event either of them dies before me, I direct that his or her share be divided in equal shares between his or her children, or in the event he or she should predecease me leaving no children, I direct that all the rest, residue and remainder of my property go to the surviving beneficiary.

ARTICLE III. – Estate Planning Letter

Notwithstanding any other provisions of this Will, I may leave a list of tangible personal property pursuant to Nevada Revised Statutes §133.045; this list will be signed and dated by me. If I leave such a list, my Executor is directed to distribute the items I list as I designated in the list. These items should not be liquidated with the rest of my Estate.

ARTICLE IV - Omissions

I have intentionally omitted from this Will any provision for any and all persons not specifically named herein, who claim to be or may be lawfully determined to be my heirs at law, who seek to establish or assert any claims to my estate or any part thereof, or to have any part of this Will declared void or diminished, or to endeavor to secure or take

any part of my estate in any manner other than through or under this Will. Such members of my family who are not mentioned herein have not been overlooked but omitted intentionally.

Specifically, I expressly disinherit and make no provision for _____.

ARTICLE V - Appointment of Personal Representative

I nominate my brother, Andrew T. Johnson, of Fallon, Nevada, as Personal Representative of this, my Last Will and Testament, with all powers, duties and discretion to do any act or thing reasonably necessary or advisable for the proper administration and distribution of my estate, and it is my desire that my Personal Representative serve without bond. In the event that Andrew T. Johnson should be unable or unwilling to serve as executor for any reason, I then nominate my daughter, ALICE SMIH, of Reno, Nevada, to serve in that capacity and grant to her all rights, powers and discretions granted to Andrew T. Johnson as Personal Representative.

ARTICLE VI - Powers of Personal Representative

My Personal Representative shall have the full authority to administer my estate under laws of the state where this Last Will and Testament shall be admitted to proceedings in probate, relating to the powers of fiduciaries, including any laws regarding the independent administration of estates, such powers to be exercisable without the supervision or approval of any court.

ARTICLE VII – Estate Taxes

The term “Estate Taxes” as used in this Will shall mean all inheritance, estate, succession, and other similar taxes that are payable by any person on account of that person’s interest in the estate of the decedent or by reason of the decedent’s death, including penalties in interest, but excluding the following:

- a. Any additional tax that may be assessed under Internal Revenue Code Section 203A or 2057; and
- b. Any federal or state tax imposed on a Generation Skipping Transfer, as that term is defined in the federal tax laws, unless the applicable tax statutes provide that the Generation Skipping Tax is payable directly out of the assets of my gross estate.

I direct my Personal Representative to pay any death taxes from the assets of my probate estate out of my residuary without adjustment among the residuary beneficiaries and shall not be charged against or collected from any beneficiary of my probate estate, or from any transferee or beneficiary of any property outside my probate estate.

ARTICLE VII – General Provisions

No Contest Clause. If any beneficiary under this Will shall contest, obstruct or otherwise resist the probate hereof; or start or join in any proceeding ending to avoid or set aside any provision of this Will, such beneficiary shall forfeit all bequests and rights conferred upon such beneficiary hereunder, and this Will shall be given effect in all respects as if such beneficiary has predeceased me.

Captions. The captions of Articles, Sections, and Paragraphs used in this Will are for convenience of reference only and shall have no significance in the construction or interpretation of this Will.

Severability. Should any of the provisions of my Will be, for any reason, declared invalid, such invalidity shall not affect any of the other provisions, and all invalid provision shall be wholly disregarded in interpreting this Will.

Governing State Law. This Will shall be construed, regulated and governed by and in accordance with the laws of the State of Nevada.

Execution

IN WITNESS WHEREOF, I hereunto sign and declare this to be my Last Will and Testament on this _____ day of _____, 201_, in the City of _____, County of _____, State of Nevada.

JOAN E. SMITH

Witnesseth:

On the date last above written, we saw JOAN E. SMITH, in our presence, sign the foregoing instrument at its end. JOAN E. SMITH then declared it to be her Last Will and Testament and requested us to act as witnesses to it. We then, in her presence and in the presence of each other, signed our names as attesting witnesses, believing JOAN E. SMITH to be at all times of sound mind and memory and not acting under constraint of any kind.

Witness One Signature

Date: _____

Printed Name

Address of Witness One

City State Zip

Witness Two Signature

Date: _____

Printed Name

Address of Witness Two

City State Zip

Self-Proving Affidavit of Witnesses

State of Nevada)
)
County of _____) ss.

Date: _____

Then and there personally appeared _____
and _____, who, being duly sworn, depose
and say: That they witnessed the execution of the foregoing Will of the testator
_____; that the testator subscribed the Will and declared it to be
her Last Will and Testament in their presence; that they thereafter subscribed the Will
as witnesses in the presence of the testator and in the presence of each other and at the
request of the testator; and that the testator at the time of the execution of the Will to
them to be of full age and of sound mind and memory.

Signature of Affiant One

Signature of Affiant Two

Subscribed and sworn to before me this _____ day of the month of
_____ of the year _____.

Notary Public

Estate Planning Memorandum of *JOAN E. SMITH*

This memorandum is a list of the disposition of my personal property as referenced in my last will and testament in "Article III, Estate Planning Letter" pursuant to NRS 133.045. Below is a description of the personal property and the name and address of the individual I wish to receive the property upon my death.

DESCRIPTION OF ITEM

NAME AND ADDRESS OF DEVISEE

Signed this _____ day of _____, 20____.

Signed by _____

Printed Name _____

APPENDIX D - SELF-PROVING AFFIDAVIT

State of Nevada)
)
County of _____) ss.

Date: _____

Then and there personally appeared _____
and _____, who, being duly sworn, depose
and say: That they witnessed the execution of the foregoing Will of the testator
_____ ; that the testator subscribed the Will and declared it to be
his/her Last Will and Testament in their presence; that they thereafter subscribed the
Will as witnesses in the presence of the testator and in the presence of each other and at
the request of the testator; and that the testator at the time of the execution of the Will
to them to be of full age and of sound mind and memory.

Signature of Affiant One

Signature of Affiant Two

Subscribed and sworn to before me this _____ day of the month of
_____ of the year _____.

Notary Public

APPENDIX E - LIST OF PERSONAL PROPERTY

Distribution of Personal Property According to NRS 133.045

Note: Nevada law allows you to distribute in this manner your tangible personal property that is not otherwise specifically disposed of by your Will, if this list is referred to in your Will. Tangible personal property includes household goods, furnishings, furniture, personal effects, clothing, jewelry, books, works of art, ornaments, and automobiles. Tangible personal property does not include bank accounts, cash, evidences of indebtedness, documents of title, securities, and property used in trade or business.

Should you wish to make any changes to the above list, make and sign a new list. Keep this list or its replacement with your Will so it can be found when it is needed.

Estate Planning Memorandum of _____

This memorandum is a list of the disposition of my personal property as referenced in my last will and testament in "Article III, Estate Planning Letter" pursuant to NRS 133.045. Below is a description of the personal property and the name and address of the individual I wish to receive the property upon my death.

DESCRIPTION OF ITEM

NAME AND ADDRESS OF DEVISEE

Signed this _____ day of _____, 20____.

Signed by _____

Printed Name _____

Appendix F - SAMPLE CODICIL

FIRST CODICIL TO LAST WILL AND TESTAMENT OF JOAN E. SMITH

ARTICLE I.

I, JOAN E. SMITH, presently residing at 924 East 14th Street, Fernley, Nevada, being of sound mind, do voluntarily declare this instrument to be my First Codicil to my Last Will and Testament which was executed by me on January, 14, 2010, and witnessed by _____ and _____.

ARTICLE II.

I direct that, in addition to my mother's ring which I gave to my brother in Article I of my Last Will and Testament, my 1998 Buick, or any other automobile that I may own at the time of my death, also be given to my brother, Andrew T. Johnson of Fallon, Nevada. These gifts are to be made prior to dividing the remainder of my property and these gifts shall not reduce the share of my estate which my brother will receive under Article I of my Will.

In all other respects not inconsistent herewith, I confirm and republish my said Will dated _____.

IN WITNESS WHEREOF, I, JOAN E. SMITH, have in the presence of the witnesses whose names appear below, declared this to be my FIRST CODICIL TO LAST WILL AND TESTAMENT, and I have signed the document in their presence and requested that they witness and attest to the execution of my FIRST CODICIL TO LAST WILL AND TESTAMENT on this ____ day of _____, 201__.

(X) _____

JOAN E. SMITH, TESTATOR

On this ____ day of _____, 201__, the above instrument was subscribed by JOAN E. SMITH in our presence. She declared the instrument to be her FIRST CODICIL TO LAST WILL AND TESTAMENT, and requested that we, then and there and in her presence and in the presence of each other, witness the execution of the instrument by signing it.

(X) _____ Witness Name & Address Witness

(X) _____ Witness Name & Address Witness



NEVADA LEGAL SERVICES

I N C O R P O R A T E D

Nevada Legal Services, Inc. (NLS) is a non-profit organization providing free legal services to low income Nevadans. NLS is a state wide organization assisting every county in Nevada. We are funded through various sources but are primarily funded through a grant from the federal government by way of the Legal Services Corporation.

Since 1981, the staff of NLS has represented clients in federal courts, state courts, and in administrative hearings. The staff negotiates on behalf of our clients where possible to try to resolve matters without the need for litigation.

THIS INFORMATION IS NOT A SUBSTITUTE FOR THE ADVICE OF AN ATTORNEY. CONTACT AN ATTORNEY FOR SPECIFIC QUESTIONS.

PLEASE NOTE: Laws are subject to change. Information contained in this pamphlet is based on laws in effect at date of publication. 12/16

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