

What Can Happen If There Is No Will or Trust

The need to set up a will and/or a trust is highlighted by a case that I dealt with a number of years ago. This matter involved a wife who died intestate (meaning she didn't have a will), leaving her husband as the surviving spouse.

Overwhelmed with grief, the husband did nothing regarding her estate. Some distant relatives decided to petition the court to become the administrator of her estate. Both the niece and their attorney were able to pay themselves a handsome salary out of the wife's estate.

Unfortunately, the husband didn't seek legal representation until the case was almost closed. All I was able to do was to make sure the court distributed to him what he was owed, contrary to what the administrator's attorney was requesting.

Altogether, about \$30,000 was lost between attorney fees, administrator fees, and court costs, all over an estate worth approximately \$300,000. About half of those fees could have been avoided if the wife had just set up a simple will. About 90% of the fees and cost could have been saved if the wife had also set up a revocable living trust. The other tragedy was that, on top of the fees and costs, one-third of the estate went to the wife's nieces and nephews whom she had no relationship when she was alive.

Contrary to what most people think, a will does not allow one's estate to avoid probate but it does allow you to appoint who you want to be in charge and where you want your assets to go at your death. A revocable living trust, on the other hand, if drafted and funded properly, will allow your estate to avoid the probate process entirely, meaning your heirs will not have to go into court upon your death.

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