



## **Are Your Estate Plans Only Worth the Cost of an Oil Change?**

**By Thomas J. Vale**

A recent national advertisement indicates you can have your legal Will drawn up for only \$9. The ad claims the Will is valid in all 50 states, and is used by over 500,000 Americans. The same ad says that for only \$12.95 you can obtain a Non-Lawyers Living Trust kit.

Out of curiosity I mailed in my \$12.95, plus postage, to see what value I would get for my money. The Will kit consisted of thirteen pages of instructions and seven different Will forms. None of the forms contained any provisions for Trusts for the minor child of a decedent (the deceased). The information didn't refer to the Wisconsin Marital Property Law, nor did the instructions describe how the laws of inheritance work in Wisconsin.

The Living Trust kit was 24 pages describing the various elements of the Living Trust, and an additional 16 pages of specimen forms, which have to be retyped. Anyone using the packet would first have to spend many hours reading the material and then redoing the forms.

You've probably seen other ads or seminars where A Living Trust is touted as the simple and fast way to pass your assets to your heirs without courts or probate. A person using these services to establish a Living Trust may pay several hundred dollar and not have the benefit of the advice, guidance and assistance of a reputable financial institution or attorney.

The above ads are, unfortunately, typically fast-buck schemes preying on the public's distrust of lawyers and the impression that lawyers overcharge for probate work. In reality, people who attempt to draft their own Wills or Living Trusts, or engage non-professionals to prepare them, can needlessly create problems for themselves, their estates, and heirs in the future. In the long run, competent legal advice at the front-end can save these same individuals thousands of dollars.

A Living Trust, if properly implements, can serve legitimate purposes. For example, it can diminish the need to file an inventory of one's assets and liabilities at the time of death with the probates court (which then becomes part of the public record). There are other legitimate reasons for considering a Living Trust, but it's critical that it be properly established and maintained.

By seeing an attorney, even when one's estate is relatively small, you receive a number of benefits. The attorney will apply his experience, education and training to that particular client's case. The attorney's knowledge of the Wisconsin Marital Property Law, tax law and probate law lets him tailor the estate plan to his client's situation.

The attorney also advises as to the appropriate type of Will or Trust, given the individual's family situation, and as to the merits of using a revocable trust as an estate planing vehicle. The stock Wills provided by national ads don't address the situation where two divorced persons have remarried and have children from the prior marriages, or





the situation where a trust for minor children is necessary. A plan ignoring these scenarios might result in the wrong person receiving your estate.

An attorney can offer suggestions on the advisability of having a Durable Power of Attorney, a Living Will, and a Power of Attorney with respect to health care to complement your total estate planning needs. An attorney can also discuss the consequences of owning property jointly and will assure that insurance policy beneficiaries are consistent with the person's estate plans. An attorney can suggest who should serve as personal representative or trustee.

The fear that the cost of having an estate probated is extremely expensive is unfounded due, in part, to simplified procedures allowing for termination of joint tenancies and summary settlements of smaller estates. Most property that is held jointly is transferred to the surviving spouse with very little expense. Further, attorneys no longer base their fees on a percentage of the estate unless the client agrees. Wisconsin Statutes require that just and reasonable attorney fees be based on the time and labor required, the experience and knowledge of the attorney, the complexity and novelty of the problems involved, the extent of the responsibilities assumed and the results obtained.

Before spending \$9 on your own Will or \$12.95 on a Living Trust kit, you should ask yourself if that is all you think your estate planning is worth. I doubt that a packet of generic forms bought for the price of an oil change will provide you peace of mind in the long run. Incidentally, the best thing I found with respect to the ad for a cheap Will and Living Trust kit was that the advertiser did return my money when I requested a full refund.

