



ELDER LAW AND ESTATE PLANNING

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Too many codicils can make a will confusing, invite estate challenges

Question: I've read the Karp Law Firm articles for a long time. Now I need advice. I have a will from 2007. Several codicils were added over the years. Now I want to make another change, but my lawyer says I need to redo the entire document, not add another codicil. Drafting a new document is going to be more costly, so I'm asking you if there is a legitimate reason to create a new document instead of adding another codicil?

Answer: For readers' benefit, let's explain that a codicil is simply an amendment to a will. All the rules that apply to wills apply to codicils, too. They must be executed with the same legal formalities. Every codicil must refer back to the original will, noting what portion of the original will is being modified. Upon the decedent's passing, the will and all codicils must be filed with the court.

For simple changes, a codicil is usually fine. An example would be changing a contingent personal representative. However, there are instances when it is preferable to draft an entirely new will. One instance would be if you have numerous codicils already. Another would be if the change you wish to make is complex – for example, changing your beneficiaries and their distributions. Numerous

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and/or very complicated codicils can make a will difficult to follow. That in turn can lead to the will being deemed invalid, or more susceptible to an estate challenge.

Yet another reason a new will is sometimes a better choice than a codicil: if a client does not want beneficiaries to know that he/she made changes to beneficiaries and distributions. Without codicils, beneficiaries will not be aware of any changes that have been made, and that can go a long way to neutralizing any family friction.

So to answer your question: Yes, there are circumstances when creating an entirely new will is the better option.

Joseph Karp and Jonathan Karp are Florida Elder Law and Estate Planning Attorneys. The Karp Law Firm is located in Palm Beach and St. Lucie counties. It assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration, estate litigation, and probate and elder law mediation.