



Q & A: Use of a Testament in a Will

What is a Testament?

A testament is a personalized writing by the person making the will. It is also sometimes known as a “legacy letter” or “ethical will.” It is not a legally enforceable document but is a voice from the heart of the person making the will concerning matters they hold to be dear. This can be accomplished by writing a testament as part of the will, or by writing a separate document that is found with the will, but will not be probated with it.

What Are Some Common Types of Testaments?

1. *Explanation.* An explanation is most closely linked to the will, and can explain the circumstances and logic behind an action or choice directed in the document. It might offer a statement as to personal reasoning for testator’s decision to dispose of his/her assets in such a way. The use of this type of testament remains somewhat controversial because it may be closely linked to the will and may give rise to misunderstandings which may create conflict.
2. *Expectation.* This is a statement – expressed as a desire - about how the decedent would like an inheritance used, to transmit values or guidelines about how to conduct oneself, or what he or she would like the recipient to accomplish. These can be particularly useful for parents and grandparents who desire to pass along their values and indicate their support that such values continue, and to state them in ways that are personally meaningful to the testament writer.
3. *Affirmation.* These are the words that many grieving family members long to hear because many of them have a need to know that they mattered to the decedent. If they didn’t hear such words in life, such healing words in a legal document may prevent conflicts among beneficiaries.
4. *Historical.* The historical statement can be a genealogy of family members, expanded with personal traits, experiences or values, or might explain the history or background of a specific bequest such as a family heirloom or other prized possession.

This overview is intended for educational purposes only and may not be considered legal advice.



Barbara Cashman, LLC

Barbara E. Cashman
Attorney & Mediator

5. *Statement of Values.* A statement of a client's personal ethics and values is often a reflection of his or her own life. Such statements often include events that formed the client's character, and can be combined with historical statements as well.

Why Might I Be Inclined to Write a Testament or Ethical Will?

If you have come to terms with your mortality and are not afraid to express yourself in such a way, the testament or ethical will can allow the writer an opportunity to confront the ultimate choices made in life and express what so often goes unsaid.

The best way to accomplish what you want is by drafting your own statements in the context of the testament or ethical will you desire. Further helpful information can be found at: www.ethicalwill.com.

This overview is intended for educational purposes only and may not be considered legal advice.

© 2012 Barbara Cashman Hahn, all rights reserved.