

Estate Planning

How to write a valid holographic will.

BY **DERICK LANCASTER**

Two types of wills are recognized in Texas: formal and holographic. A formal will requires that at least two people over the age of 14 witness the signing of the document. An attorney should draft your formal will. Holographic wills are popular because you don't have to get them signed by a witness and you can draft one yourself without an attorney.

The downside to writing holographic wills is that they can be attacked in ways formal wills cannot. For example, to admit a holographic will to probate, someone who knows you must testify that the holographic will is in your handwriting. If the will is contested, your estate may have to hire a handwriting expert before the will can be probated.

Second, while it may be convenient to not have a witness to your will, this also means that there is no witness to testify as to the circumstances that surrounded your signing of the will. So, if a disinherited heir wanted to challenge your will, he or she could argue that you were not in your right mind or that someone had undue influence over you, and there would be no witness present to testify either way.

With these concerns in mind, if you choose to write a holographic will, here is how to do it.

1. General Requirements

For a will to be valid in the state of Texas, the testator (the person writing the will) must be at least 18 years old, married, or in the military. The testator must also be of sound mind, which requires that you: (1) know what property you own, (2) understand that what you are doing is writing a will,

and (3) know that a will sets up how your property is distributed after your death. You must also have the intent to write a will.

2. Title

At the top of the page, write the title of the document. This helps show that you intended to write a will. For example: "The Last Will and Testament of Derick Lancaster."

3. Opening Line

It is important to start with stating who you are and what you are doing in this document, such as:

I, Derick Lancaster, of Houston, Texas, on this date, May 14, 2016, am of sound mind, and I am writing this holographic will with the intent of setting forth my wishes for the disposition of my estate after my death.

4. Revoking Prior Wills

If you have written anything remotely resembling a will prior to this new will, you must expressly revoke it in your new holographic will. For example: "I expressly revoke all prior wills and make them invalid and without binding legal force."

You should also shred or destroy every copy of every other will that you have written before this one. This is called revocation by destruction.

5. Who Gets What

The next several lines should be a list of who gets what property. You should always include an accurate description of the property, your relation to the person getting the property, and the full name of the person getting

the property. For example: "As for my truck, I want it to go to my brother, Brandon Lee Lancaster."

6. The Leftovers

After you have listed who gets what property, there may be some remaining property—even property that you have forgotten about. You can address this with what is called a residuary clause, which explains that after all of the specific gifts are given, if there is anything leftover, you would like to give it to a specified person. For example: "As for the rest, residue, and remainder of my estate, I want it to go to my brother, Brandon Lee Lancaster."

7. Sign and Date

Sign your new will at the bottom of the last page and date it.

8. Helpful Hints

If your will is more than one page, number each page (i.e. "page 1 of 3"). Use three staples across the top of the document to show that no pages were added or taken out after you signed it.

Write as legibly as possible and keep the will organized.

Put your new will in an envelope and seal it. Let your family and friends know that you have a will and, more importantly, where you keep it. You must have the original will to give to the probate court.

Writing a will can become very complicated, and writing a holographic will isn't appropriate for most people. **TBJ**

This article was previously published and is reprinted with permission of the author.



DERICK LANCASTER

is the founder of the Law Office of Derick Lancaster, an estate planning and administration firm in Houston. He is also of counsel to the Roxell Richards Law Firm. You can find him on Twitter @derick_esq or through his website, dericklanaster.com.