

FILE

In re Emily Dunn

Reilly, Ingersol & Powell, PC

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MEMORANDUM

July 29, 1999

To: Applicant
From: Robert Reilly
Re: Emily Dunn

Yesterday I met with Emily Dunn, who was recently widowed. She has asked me to prepare a new will for her.

The transcript of the interview should give you a good overall sense of what Mrs. Dunn is trying to accomplish. Looking back over it, however, I see some potential holes in my understanding of her precise intentions. In particular, I'm concerned about how she wants to deal with the disposition of potential insurance proceeds, her gifts of stock, the equalization of gifts to her grandchildren, and the distribution of the residuary estate. These ambiguities are not surprising. There are always some unresolved details that we must review with a client at a subsequent meeting. At such meetings, however, I find it useful to have a draft of the will to help clients refine their choices. I'd like you to do the following:

1. Draft the introductory and all dispositive clauses for Mrs. Dunn's proposed new will. Please set them forth in separately numbered paragraphs and in an order consistent with our firm's Will Drafting Guidelines. Don't concern yourself with the definitional and boilerplate clauses.
2. In drafting the dispositive clauses regarding the four areas I've said I'm concerned about, you will have to fill in the gaps left in the interview by making some assumptions about exactly what Mrs. Dunn wants. Therefore, in drafting a dispositive clause that requires an assumption about the insurance, the stock, the grandchildren, or the residuary estate, following that clause write a short explanatory paragraph that does two things:
 - A. Tells me what assumptions you've made about the facts and Mrs. Dunn's intentions;
 - A. Tells me why, based on those assumptions, you drafted the particular clause the way you did.

Reilly, Ingersol & Powell, PC

MEMORANDUM

September 8, 1995

To: All Attorneys
From: Robert Reilly
Re: Will Drafting Guidelines

Over the years, this firm has used a variety of formats in drafting wills. Effective immediately, all wills drafted for this firm should follow this format:

Introduction:

- A. Set forth the introductory clause with the name and domicile of the testator.
- B. Include an appropriate clause regarding the revocation of prior testamentary instruments.
- C. Include a clause describing the testator's immediate family (parents, sibling, spouse, children, and grandchildren).

Part ONE: Dispositive Clauses (to be set forth in separate subdivisions or subparagraphs by type of bequest or topic). Bequests should be set forth in the following order, as appropriate:

- A. Specific bequests
 - 1. Real property
 - 2. Tangible personal property
 - 3. Other specific bequests
 - 4. Any other clauses stating conditions that might affect the disposition of the real and tangible personal property
- B. General bequests
- C. Demonstrative bequests
- D. Residuary clauses

Part TWO: Definitional Clauses. Clauses relating to how words and phrases used in the will should be interpreted.

Part THREE: Boilerplate Clauses. These are clauses relating to the naming of fiduciaries and their administrative and management authority, tax clauses, attestation clauses, and self-proving will affidavits.

Reilly, Ingersol & Powell, PC

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May 27, 1999

Mrs. Emily Dunn
23 Ipswich Lane
Jackson City, Franklin 33399

Dear Emily:

It was quite a shock to learn of Chuck's sudden heart attack given how fit he had been all of his life. He was a wonderful friend, and he will be sorely missed.

I am enclosing the completed documents finalizing your gift to the Franklin Museum of Art of the Claude Monet painting that you inherited from your grandfather.

When we last talked, you asked me to review your files and see if other things require your attention. In light of Chuck's death, it is appropriate that you review your 1965 will to see what changes you might like to make. A copy of that will is enclosed.

Please call me for an appointment to talk about possible revisions to your will. When we meet, we can talk about your family and other people to whom you might want to leave your property.

I look forward to seeing you soon.

Sincerely,



Robert Reilly

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Enclosure

LAST WILL AND TESTAMENT

I am Emily Dunn, a resident of Jackson City, Franklin. This is my Last Will, and I revoke all previous wills and codicils.

- ONE:**
- A. I give all of my tangible personal property to my husband, Charles Dunn, if we are married to each other at the time of my death.
 - B. I give my family home located at 23 Ipswich Lane, Jackson City, Franklin to my husband, Charles Dunn, if we are married to each other at the time of my death.
 - C. At the present time my husband is Charles Dunn, and we have two children, Andrea and Jonathan.
 - D. I give 500 shares of Wilson Corporation stock to my cousin, Alice Dunn.
 - E. If Alice Dunn does not survive me, I give those 500 shares to her son, Drew Dunn.
 - F. I give the Claude Monet painting I inherited from my grandfather to the Franklin Museum of Art.

TWO: The remainder of my estate shall be disposed of in the following manner:

- A. I give the sum of \$25,000 to Bea Willis who for many years was my governess and who now lives in Sarasota, Florida.
- B. I give the sum of \$50,000 to Thomas Hardman who for 25 years served my parents faithfully as a gardener, provided he is married at the time of my death.
- C. The balance of my residuary estate I give to my husband, Charles Dunn, or if he does not survive me or if we are not married at the time of my death, I give the balance of my residuary estate equally to our two children if they survive me, or all thereof to the survivor, or if none of my children survives me, I give the balance of my residuary estate to the Franklin Museum of Art.

THREE: A. I nominate First Federal Bank as Executor of my estate. I empower my Executor to exercise all administrative and management powers conferred on it as Executor by the laws of the State of Franklin. I direct that my Executor not be required to post a bond.

IN WITNESS WHEREOF, I, Emily Dunn, have signed this, my Last Will, on the 18th day of January, 1965.

Witnesses:

Margaret Carnegie *Emily Dunn*
Judy Carter

EXCERPTS OF TRANSCRIPT OF INTERVIEW WITH EMILY DUNN

July 28, 1999

Attorney: By the way, are you going to be OK financially?

Dunn: I'll be fine. Chuck insured everything we own and I should be able to get by on what he left me.

Attorney: Good. I know we could go on talking about Chuck for hours and that it's hard to go from talking about Chuck to talking about your own will, but we need to go over a number of facts so that I can revise the will you signed in 1965.

Dunn: I realize my will is really out of date. Both Bea Willis and Thomas Hardman are dead.

Attorney: Let me go over some basics. When and where were you born?

Dunn: 1928 in Jackson City, Franklin.

Attorney: When did you and Chuck marry?

Dunn: On June 15, 1947. He died on April 30, 1999.

Attorney: What are the names and ages of your children and their spouses?

Dunn: I have three children: Andrea Dunn Little, age 45; Jonathan Dunn, age 42; and Bertha Dunn, age 30. My daughter Andrea is married to Elliott Little. Jonathan and Bertha are single.

Attorney: What are the names and ages of your grandchildren?

Dunn: I have four grandchildren. Andrea's kids are Nelson Little, age 12; Becky Little, age 9; and Steven Little, age 5. Also, there is my grandson, Sidney Dunn, age 8, who is my daughter Bertha's only child.

Attorney: Let's talk about how you'd like to divide your property. Is there anyone to whom you would like to give cash?

Dunn: Yes, \$20,000 to Helen Rossini, a good friend of mine whose husband, Harry, recently died. He left her his car. Apparently, it has been stolen and now there is some question about whether the insurance proceeds are payable to her or to her husband's children from his first marriage. She is very upset, as she should be. What a terrible thing. Wouldn't you think that she would get the insurance if she also got the car under his will?

Attorney: That must have been very hard for Helen, but that's a lesson to us about how careful we have to be when we're setting up our wills. How old is Helen?

Dunn: Oh, she's a little older than I am, about 75.

Attorney: What would you like to have happen with the \$20,000 if Helen doesn't survive you?

Dunn: If Helen dies before me, I suppose I don't really care, although I'd like the money to stay in my family.

Attorney: What else do you have that you'd like to give away?

Dunn: Well, I have 10,000 shares of Wilson Corporation stock, and I want to give my grandchildren, Nelson, Becky, Steven, and Sidney, 500 shares each. Of course, if I have more grandchildren before I die, as I hope, I'd like each of them to receive 500 shares, too. Oh, and I'd like to give some stock to the children of my cousin, Alice Dunn. She's dead now, but she had three children, Drew, Bobby, and Marilyn, who is the child of her husband from his first marriage whom she adopted. While I haven't had much contact with any of them, I'd still like to leave her kids 600 shares of Wilson. After all, it is the family-owned company founded by our great-grandfather. The 600 shares should be divided equally among any of Alice's three children if they are still alive when I die.

Attorney: So you want to treat your grandchildren equally with respect to the gift of stock.

Dunn: Yes, I've always tried to treat them equally. After all, I love them all the same.

Attorney: Now, if your grandchildren die before you, you can make the gift to another person, including any of their children. What would you like to have happen with the stock if one of the grandchildren does not outlive you?

Dunn: If any of them dies before me, I suppose the stock should go to their kids. I mean, I would want any children of a grandchild who might die before me to get what his or her parent would have gotten.

Attorney: What about other personal property?

Dunn: I want Andrea and Bertha to have my jewelry. They should split it up between them as they see fit.

Attorney: What if Andrea and Bertha can't agree on how to divide it?

Dunn: Then my executor will have to divide it up as equally as possible.

Attorney: What if one of them dies before you?

Dunn: In that case, let my executor divide it up and then sell the share of the one who died before me.

Attorney: Other than the jewelry, how would you like the rest of your property divided?

Dunn: Jonathan should get the things located in my home, as well as the house itself.

Attorney: What if Jonathan dies before you?

Dunn: If he dies before me, the house and the things in the house should be sold and the money from the sale should be distributed along with everything else I have left.

Attorney: OK. Then let's talk about how you would like the balance of your estate to be disposed of.

Dunn: Now that Chuck's gone, I want what's left of my estate to go equally to my kids, or their families, of course.

Attorney: When you say "family," do you mean to include spouses of your children?

Dunn: No. Just my kids.

Attorney: What if all your children and grandchildren outlive you?

Dunn: Then I would just want things divided up equally among the kids, not the grandchildren.

Attorney: What if one or two of your children die before you, leaving grandchildren? Would you still want the balance of your estate divided into three equal parts?

Dunn: Yes. But would that mean my grandchildren wouldn't be treated equally?

Attorney: It might, depending on whether any of your children dies before you.

Dunn: It's hard for me to think about that now. Let me tell you this. I want my estate divided equally among my three children whether or not they are alive when I die. Then, I want all the children of my deceased children to be treated equally.

Attorney: We may not be able to do that without setting up a trust because we don't know at this time whether any of your kids will die before you.

Dunn: No, I don't want a trust. I want my heirs to have the total freedom to do what they want with my property when I die.

Attorney: OK, I think I have a fairly clear picture of how you would like your estate handled. I'll have a revised will prepared for you within the next few weeks. I'll call you to set up an appointment so that we can go over it together and make sure it's what you want.

Dunn: Well, you won't be able to reach me for a few weeks. I always wanted to see the Great Wall of China, and Helen and I are leaving tomorrow for Beijing and beyond. I'll call you when I return.

Attorney: Have a wonderful trip, Emily. We'll get together when you get back.

