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## Case Study 3

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Organize, Communicate, Prepare

### The disadvantages of writing your own will

Eddie, age 70, decides to write his own will. He is a widower and had four children and eight grandchildren. Two of his children, Rob and Pete, are unmarried and have no children. Kate, his oldest child, is married and has two children and Mark, his youngest child, has six children. Mark, who was married, is deceased. Eddie borrows some language from an old legal textbook, and he leaves everything equally to his children who survive him and to the descendants of his children who predecease him, *per capita*. He has a neighbor and his oldest child, Kate, witness his will. They sign on lines directly below his name.

1. How old does Eddie have to be to sign a will?  
 A. 16  
 B. 18  
 C. 21  
 D. It doesn't matter what age.
2. Eddie has disinherited his oldest child, Kate.  
 True  
 False
3. Eddie has disinherited Kate's children.  
 True  
 False
4. At Eddie's death, his distributable net estate (what is left after taxes, expenses, and creditors) will be divided under his will:  
 A. In four equal shares, with Mark's share going to his six children.  
 B. In three equal shares, with Mark's share going to his six children.  
 C. In nine equal shares going to Kate, Rob, Pete, and Mark's six children.
5. Assume that Eddie's neighbor, who witnessed the will, dies before Eddie. As a result, it is likely that Eddie's will be declared invalid after Eddie passes on.  
 True  
 False

Case Study 3

6. Eddie's will could be admitted to probate, in spite of his neighbor's death, if:
- A. Kate had not witnessed it.
  - B. It had been self-proved (witnesses signed a brief statement that was then notarized).
  - C. The other witness, Kate, could provide an affidavit that she had witnessed the will.
  - D. B and C.
7. If Eddie's will is not declared valid during the probate process, his distributable net estate will be divided according to state intestacy statutes:
- A. In four equal shares, with Mark's share going to his six children.
  - B. In three equal shares, with Mark's share going to his six children.
  - C. In eight equal shares going to Rob, Pete, and Mark's six children.
  - D. In 11 equal shares going to Rob, Pete, Kate, Kate's two children, and Mark's six children.
8. Assume that Kate, his oldest child, also dies before Eddie. If Eddie's will is not admitted to probate, his distributable net estate will be divided:
- A. In four equal shares, with Mark's share going to his six children and Kate's share to her two children.
  - B. In three equal shares, with Mark's share going to his six children.
  - C. In 10 equal shares going to Rob, Pete, Mark's six children, and Kate's two children.
  - D. In four equal shares, with the shares of Kate and Mark being added together and divided equally among their eight children.
9. Eddie would have been better off without his do-it-yourself will.
- True
  - False
10. Eddie attends an estate planning course at his local Cooperative Extension office, and he learns of the problems his do-it-yourself will may cause. He can revoke his will by:
- A. Signing a new will
  - B. Destroying his will with the intent to revoke it
  - C. Marking extensively through the will and writing corrections in the margin.
  - D. All of the above.
  - E. A and B.

*Adapted for use in the Legally Secure Your Financial Future program; prepared by [Carol A. Schwab, J.D., LL.M.](#), former professor and Extension Specialist, NC State University.*

*Reviewed and adapted for Idaho by Boise attorneys, Robert Aldridge, September 2004 and Robert Wreggelsworth, June 2005.*

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**Case Study 3**  
**Answers**

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**The disadvantages of writing your own will**

**The following answers are based upon North Dakota law as of January 2006. The laws in other states may be different. Laws are subject to change, so please ask your attorney for answers to specific questions.**

1. How old does Eddie have to be to sign a will?

**ND answer: B. 18**

2. Eddie has disinherited his oldest child, Kate.

**ND answer: False**

3. Eddie has disinherited his oldest child Kate's children.

**ND answer: False**

4. At Eddie's death, his distributable net estate (what is left after taxes, expenses, and creditors) will be divided under his will:

**ND Answer: A**

In four equal shares going to Kate, Rob, Pete and Mark, with Mark's share going to his six children.

5. Assume that Eddie's neighbor, who witnessed the will, dies before Eddie. As a result, it is likely that Eddie's will be declared invalid after Eddie passes on.

**ND answer: False**

6. Eddie's will could be admitted to probate, in spite of his neighbor's death, if

**ND answer: Both B & C are true, so the answer is D.**

7. If Eddie's will is not declared valid during the probate process, his distributable net estate will be divided according to state intestacy statutes.

**ND answer: A**

In four equal shares, with Mark's share going to his six children.

8. Assume that Kate, his oldest child, also dies before Eddie. If Eddie's will is not admitted to probate, his distributable net estate will be divided:

**ND answer: D.**

In four equal shares, with the shares of Kate and Mark being added together and divided equally among their eight children.

9. Eddie would have been better off without his do-it-yourself will.

**ND answer: True**

10. Eddie attends an estate planning course at his local Cooperative Extension office, and he learns of the problems his do-it-yourself will may cause. He can revoke his will by:

**ND answer: D. All of the above**

It would be best to sign a new will or destroy the old one.

*Adapted for use in the Legally Secure Your Financial Future program; prepared by Carol A. Schwab, J.D., LL.M., former professor and Extension Specialist, NC State University.*

*Reviewed for North Dakota use by Paul Murphy, Attorney at Law, Murphy and Spahr Law Office PC, Carrington, ND, January 2006.*

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