

# LegalFormApps

## Sample Last Will and Testament Form

### LAST WILL AND TESTAMENT

OF

**SAMUEL JONES**

I, Samuel Jones, a resident of Chicago, Illinois, being of sound mind and memory and at least eighteen (18) years of age, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all prior Wills and Codicils at any time heretofore made by me.

I am currently married to Jenny Jones who is referred to herein as "my spouse". I am the parent of the following children: Joey Jones and Sara Franklin. All references to "my children" shall include my current children listed herein, as well as, any biological children born to me after the date of execution of this Last Will or other children legally adopted by me after the date of execution of this Last Will.

#### ARTICLE I

##### PERSONAL REPRESENTATIVE

I hereby name, constitute and appoint Walter Jones as Personal Representative to administer my estate. If Walter Jones shall fail, cease, or be unable to serve as Personal Representative for any reason, then Sara Franklin shall serve as successor Personal Representative of my estate. The term "Personal Representative" has the same meaning as the term "executor" herein.

Should the laws of the state in which my Last Will and Testament is probated allow it, then my Personal Representative shall not be required to furnish a bond for the faithful performance of his or her duties as Personal Representative.

In the event the laws of the state in which my Last Will and Testament is probated allow it, I authorize my Personal Representative to administer my estate independently without adjudication, order or direction of any court. The decision to administer my estate independently or under court supervision shall rest solely with my Personal Representative.

My Personal Representative shall be paid reasonable compensation for serving in this office.

#### ARTICLE II

##### BURIAL / PAYMENT OF DEBTS

A. I hereby leave the details of my burial to my surviving family members.

- B. As soon as practicable after my death, I direct my Personal Representative to pay any expenses related to my burial, including any ceremony performed in conjunction with the burial. My Personal Representative is further authorized to pay honorarium to any clergymen in conjunction with my funeral and the travel costs of any beneficiaries of this Will who have traveled from their residence to attend my funeral.
- C. As soon as practical after my death, I direct my Personal Representative to pay any debt or claim which he/she or a court determines to be legally enforceable against my estate. In the absence of a court order, my Personal Representative shall have absolute discretion to determine that a debt is legally enforceable against my estate. However, if at the time of my death any of the real property herein devised is subject to a mortgage, I direct that the devisee receiving said mortgaged property shall take it subject to such mortgage and that the devisee shall not be entitled to have the mortgage paid out of my general estate.
- D. All expenses of administration of my estate shall first be paid out of the residuary of my estate (Article V below) until exhausted, next out of charitable bequests found in Article III below until exhausted, and lastly out of specific bequests found in Article IV below.
- E. Direction to Pay All Taxes From Residuary of My Estate. I direct that all taxes of whatever kind be paid out of the residuary of my estate. The term "residuary of my estate" generally refers to those assets remaining after all debts and expenses of administration of the estate have been paid and, also, after payment of all charitable bequests made in Article III below and all specific bequests made in Article IV. Should the residuary of my estate be insufficient to pay taxes, the Personal Representative shall take pro rata from my charitable bequests made in Article III sufficient sums to pay the taxes. Should the taxes still not be satisfied after exhaustion of the residuary of my estate and my charitable gifts, the Personal Representative shall take pro rata from my specific bequests made in Article IV sufficient sums to pay the taxes. The Personal Representative is not to seek, through force of law, contribution for the payment of taxes from any of my beneficiaries or from individuals to whom I have made gifts during life unless directed to do so by court order.

**ARTICLE III  
CHARITABLE GIFTS**

I hereby give and bequeath the following below-described sums of money or items of personal or real property, as the case may be, to the following charities:

Name of Charity	Description of Gift
Boys Hope	\$10,000
YMCA	\$5,000

**ARTICLE IV  
SPECIFIC BEQUESTS OTHER THAN CHARITABLE**

- A. Specific Bequests: In addition to the disposition of personal effects as stated above, I give and bequeath the following below-described sums of money or items of personal or real property, as the case may be, to the following beneficiaries:

Beneficiary	Description of Bequest
Joey Jones	My golf clubs

**ARTICLE V  
RESIDUARY ESTATE**

I give and bequeath all of the rest, residue and remainder of my estate (after payment of all debts and expenses of my estate pursuant to Article II and after all charitable and specific bequests found in Articles III and IV above) to my spouse and, if she shall not survive me, to my children in equal shares, per stirpes.

**ARTICLE VI  
GUARDIAN OF MY CHILDREN**

No provision has been made in this will for the nomination of guardians for minor children.

**ARTICLE VII  
POWERS OF THE PERSONAL REPRESENTATIVE**

- A. I hereby grant to my Personal Representative with respect to any and all property which shall at any time constitute a part of my estate all powers granted to that office by the laws of the State of Illinois including the right to make all tax elections of any nature which in any manner effect my estate under federal or state law. These powers are exercisable at the discretion of my Personal Representative. In addition to any powers now or hereafter conferred upon the Personal Representative by law, including all powers granted under independent administration, the Personal Representative shall have the power to:
1. Sell estate assets at public or private sale for cash or on credit terms,
  2. Lease estate assets without restriction as to duration, and
  3. Invest any surplus money of the estate in real or personal property as the Personal Representative deems advisable.
- B. Furthermore, on any distribution of assets from the estate, the Personal Representative shall have the discretion to partition, allot, and distribute the assets in the following manner:
1. In kind, including undivided interest in an asset or in any part of it,
  2. Partly in cash and partly in kind, and
  3. Entirely in cash.
- C. For estate assets otherwise distributable directly to a minor beneficiary, the Personal Representative shall have the discretion to distribute said assets in one of the following manners:
1. To the guardian of the minor's person or estate,
  2. To any adult person with whom the minor resides and who has the care, custody, or control of the minor, or
  3. To a custodian of the minor under the Uniform Transfers to Minors Act (or similar Illinois law).

The Personal Representative is free of liability and is discharged from any further accountability for distributing assets in compliance with the provisions of this paragraph C.

- D. If a group of assets is distributable to more than one beneficiary, the Personal Representative shall have the discretion to distribute assets among them on a pro rata or non pro rata basis, with the assets valued as of the date of distribution.

**ARTICLE VIII**  
**MISCELLANEOUS**

- A. In the event that any of my property, or all of it, at the time of my death is found by a court, or determined by the personal representative, to be community property under the laws of the appropriate state for this determination, then my Will shall be construed as referring only to my community–property interest in an item of property. In no case shall my Last Will be construed as attempting to convey property owned by my spouse. Furthermore, if I have attempted to make a specific bequest of real or personal property in this Last Will in which my spouse has an interest, I hereby direct my Personal Representative to do one of the following: (1) purchase my spouse's interest in said piece of real or personal property at fair market value and, thereafter, complete the bequest as stated in this document or (2) allow my spouse to purchase my interest in said piece of real or personal property at fair market value and, thereafter, distribute the net sales proceeds to the designated beneficiary in completion of the bequest.
- B. **Simultaneous death.** Any beneficiary named herein who does not survive me by 48 hours shall be deemed to have predeceased me for purposes of this will.
- C. If any portion of my Will shall be held illegal, invalid or otherwise inoperative, it is my intention that all of the other provisions hereof shall continue to be fully effective and operative insofar as is possible and reasonable.
- D. The term "bequest" as used in this Will shall refer to a gift to a beneficiary of either real or personal property.
- E. As used in this Last Will, "per stirpes" shall mean a system of distributing a bequest under which children take equally among themselves the share which their parent would have taken had he or she survived the Testator. For example, using the per stirpes method, suppose a bequest was made equally to three individuals, one of whom had already died leaving issue. The bequest would be divided into thirds with each living beneficiary receiving a one–third share and the issue of the deceased beneficiary dividing a one–third share equally amongst themselves. If, however, the deceased beneficiary was not survived by issue, then the one–third share of the bequest for the deceased beneficiary would be re–distributed one–half to each of the surviving beneficiaries.
- F. If (and only if) I have **not** made an effective disposition of the residuary of my estate, the Personal Representative shall distribute it to my heirs at law, their identities and respective shares to be determined according to the laws of the State of Illinois relating to intestate succession in effect on the date of my death.

IN WITNESS WHEREOF, I, the Testator, sign my name to this instrument this \_\_\_\_\_ day of August, 2010 and being first duly sworn, do declare to the undersigned authority and below-named witnesses that I sign and execute this instrument as my Last Will, that I execute it as my free and voluntary act for the purposes expressed herein and that I am eighteen years of age or older, of sound mind and under no constraint or undue influence.

\_\_\_\_\_  
Samuel Jones, Testator

We, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the Testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the Testator, hereby signs this will as witness to the Testator's signing, and that to the best of our knowledge the Testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Dated: August \_\_\_\_\_, 2010

\_\_\_\_\_  
Signature of Witness #1  
Print Name:  
Address:

\_\_\_\_\_  
Signature of Witness #2  
Print Name:  
Address:

STATE OF ILLINOIS                    )  
  ) SS.  
COUNTY OF \_\_\_\_\_)

We, the below-named witnesses, being first duly sworn, sign our names to this instrument and do hereby declare to the undersigned authority that (1) each of us were present and saw the Testator sign the will in our presence, (2) the will was attested by us in the presence of the Testator and (3) we believe the Testator to be of sound mind and memory at the time of his signing or acknowledging the will.

\_\_\_\_\_  
Signature of Witness #1  
Print Name:

\_\_\_\_\_  
Signature of Witness #2  
Print Name:

Subscribed, sworn to and acknowledged before me by the two aforesaid witnesses this \_\_\_\_\_ day of August, 2010.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(Note: This page is **not** to be attached to your will.)

## INSTRUCTIONS REGARDING EXECUTION OF YOUR WILL

- A. **Important.** Your last will should have page numbers on **each page**. The PDF version of our documents come with page numbers already embedded. If you downloaded an MS Word version of the document from our site, it shall lack page numbers and you shall need to manually add them to the document. If you are unable to determine how to do so, please email the document to [support@legalformapps.com](mailto:support@legalformapps.com) and we shall add the page numbers for you.
- B. We recommend that you execute two originals of your Last Will and Testament. Give the first original to the Personal Representative you named and you retain the second original (preferably placed in your bank lock box).
- C. Our last will template cannot be used to create a joint will for both a husband and wife. A separate last will document must be created for each individual.
- D. **Witnesses.** Generally, a witness to a last will need only be 18 years of age or older and mentally competent. In many states, a beneficiary of your will cannot also be a witness. It is highly recommend that you do **not** use any individual as a witness who is also a beneficiary of your will.  
The following is the statute from your state regarding who is eligible to be a witness:  
**Beneficiary or creditor as witness.** (a) If any beneficial legacy or interest is given in a will to a person attesting its execution or to his spouse, the legacy or interest is void as to that beneficiary and all persons claiming under him, unless the will is otherwise duly attested by a sufficient number of witnesses as provided by this Article exclusive of that person and he may be compelled to testify as if the legacy or interest had not been given, but the beneficiary is entitled to receive so much of the legacy or interest given to him by the will as does not exceed the value of the share of the testator's estate to which he would be entitled were the will not established. (b) No individual or corporation is disqualified to act or to receive compensation for acting in any fiduciary capacity with respect to a will of a decedent by reason of the fact that any employee or partner of such individual or any employee or shareholder of such corporation attests the execution of the will or testifies thereto. No attorney or partnership of attorneys is disqualified to act or to receive compensation for acting as attorney for any fiduciary by reason of the fact that the attorney or any employee or partner of the attorney or partnership attests the execution of the will or testifies thereto. (c) If real or personal estate is charged with any debt by a will and the creditor whose debt is so secured attests the execution of the will, the creditor may testify to its execution. Illinois Code 755 ILCS 5/4-6.
- E. Simultaneous death. This document provides that any beneficiary named herein who does not survive you by 48 hours shall be deemed to have predeceased you for purposes of this will. For example, if a married couple who named each other as primary beneficiaries were in an auto accident and died a few hours apart, having this provision in each will ensures that the estate of each passes to contingent (secondary) beneficiaries of each spouse rather than 100% of both estates to the beneficiaries of the spouse who lives a few hours longer.
- F. Your witnesses need to physically watch you execute the Will and then sign the Will attesting to their act of witnessing your signature. EACH WITNESSES MUST GIVE HIS OR HER ADDRESS UNDERNEATH THEIR SIGNATURE. If you decided to have your Will notarized (which is by far the common and recommended practice), you and your witnesses will need to go to the notary together to all sign the Will at the same time.
- G. What assets of mine are not covered by this Last Will? All assets which you own that pass outside of state probate procedures will not be affect by the designations you make in this will. The most notable types of property that pass outside of probate and, therefore, are not effected by designations in your Last Will, are: (a) life insurance proceeds where any person or institution is named as the beneficiary of your policy other than your probate estate (or the office of personal representative of your estate), (b) Individual Retirement Accounts (IRAs) and other retirement accounts where beneficiaries are named other than your probate estate, (c) property that is jointly owned with right of survivorship, and (d) property which has a "transfer on death" (TOD) designation to someone other than the personal representative of your estate. In community property states such as California, all community property of a married couple is owned 1/2 by each spouse. Therefore, in a community property state, the Last Will only effects that portion of a married couple's community property attributable to the deceased spouse.
- H. Where do I get a notary? Your local bank is the best place to find a notary. If you cannot find a notary at your bank, please consult your local Yellow Pages which has them listed under "notaries public". Also, [UPS® Stores](#) often have notary services.

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