

A SIMPLE WILL

ANNALS OF JUSTICE

By Steve LaCheen

I embarked on the private practice of law, as a sole practitioner, in June 1958. Mr. Clean was the shepherd in the White House, and there were two mail deliveries each day. Six months later, I was still typing my own letters, cleverly inserting my wife's initials where a secretary's should have been. The most personal of my incoming mail was addressed to "Occupant," and consisted of advertisements from law-book publishers, suppliers of temporary office help and smoker-film distributors. But, ever so gradually, I began to build a client base and a practice.

I had been practicing for about a year when an accountant I had encouraged to send me work called to ask if I would "do a will" for the father of a client of his. Although I had no experience in the drafting of complicated wills or trusts, I had already drafted a number of simple wills for individuals, and mutual wills for spouses, the going rates for which were \$25 and \$50, respectively.

In this instance, the accountant assured me that this would be the epitome of a simple will – the testator was a widower whose sole heir was the accountant's client. And, he said I should charge \$50, twice my usual fee! Of course, I said yes. I prepared a draft of the will, inserting the current month, leaving the date blank, and sent it to the client for review, and execution if correct.

About a week later, the accountant's client called. "The will's fine," he said, "perfect."

"Remember," I said, "your father has to execute the will in the presence of two people, not including you; so, if you want, we can arrange to have it done in my office."

"So you have people who will be witnesses? Great. Remember to change the date," he said.

"That's why I left the date blank, so no change will be necessary, unless you don't do it this month. My secretary and another lawyer on my floor will sign as

witnesses."

"Witnesses? I'm not talking about witnesses," he said, "I'm talking about the will. Did you get someone to sign the will, or are you going to do it?"

"What do you mean, 'sign the will'? The only other signature is your father's," I sputtered.

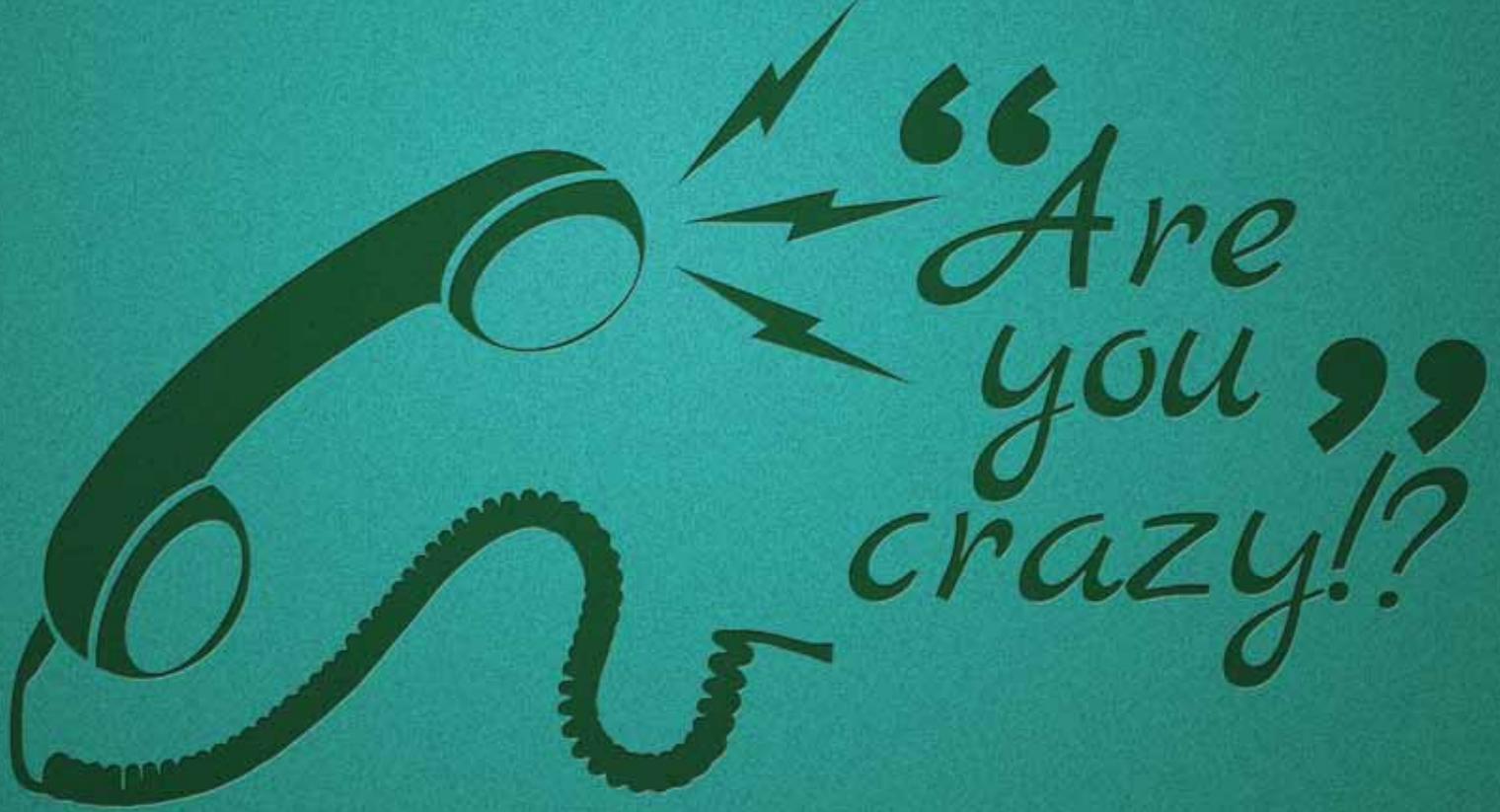
"You mean he never told you?"

"Who?" I asked. "Who never told me what?"

"My father died last month. We just need a will confirming he left everything to me."

"Are you crazy!?! You expected me to sign your father's will, or get someone to do it?"

"The accountant said it wouldn't be a problem. I'm the only heir. There's no problem. No one will know. No one would



even care. What was his is mine now, anyway. This is just to avoid the hassle of posting a bond, and the rigmarole and red tape when there is no will.”

“You’re out of your mind,” I yelled, completely losing my composure. “Is this some kind of test, to see if I would agree to something like that? What do you mean ‘no one would know’? I would know. I WOULD KNOW, WOULDNT I?”

“Well,” he said, remaining totally calm – and I thought that if anyone overheard this conversation, it would be me who sounded totally irrational and completely out of control. “Well,” he repeated, “if you feel that strongly about it, you can just forget it. I am sure we can get somebody else to sign the will. We’ll just use the one you prepared.”

My insides felt shaken, and I was desperately trying to figure out how I could protect myself from the accusations that would surely follow if the will was ever questioned. The draft even had my backer on it, clearly identifying it as a document prepared in my office.

But I quickly realized I could protect myself.

“You’re forgetting one thing,” I said. “You can’t use the will I prepared. Not knowing your father was already dead, I put this month’s date on it; so you

won’t be able to use it.”

And then I went one step farther. I said I would check all future filings with the Register of Wills, and if I ever saw such a will was filed for probate, I would report it as a forgery.

I did not even consider that I probably had an obligation to immediately report the proposed forgery, or at least get an

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opinion from the Disciplinary Board about my responsibility; but I never had to, because several weeks later I saw a notice in *The Legal Intelligencer* that Letters of Administration had been granted to the son as personal representative of the estate of his father, who had died intestate.

I never heard from the client again.

The accountant, of course, denied knowing about the proposed forgery; but he never referred another client to me. And, it was the first fee I ever ate.

Twenty-five years later, I came across a one-paragraph article in the Metro section of the morning paper, reporting that the decedent’s son in that old matter had pleaded guilty to a federal tax offense, and was scheduled for sentencing several months later. I made a mental note to follow the matter up, but it slipped my mind.

A year or so later, however, I read his obituary. More than just a death notice, it recounted the history of how he had inherited his father’s business, which had been very successful at first, then went through a bankruptcy, but finally regained success. His death had been unexpected and sudden.

The obit mentioned that the decedent was survived by three children. Only the oldest had been working in the business; and he was quoted as saying it did not bode well for the successful transition of the business that his father died without leaving a will. ■

Steve LaCheen (slacheen@concentric.net) is a partner with LaCheen Wittels & Greenberg and has been a member of the Editorial Board of The Philadelphia Lawyer since 1975.