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LAW & DISORDER

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WILL DISPUTES SPECIAL

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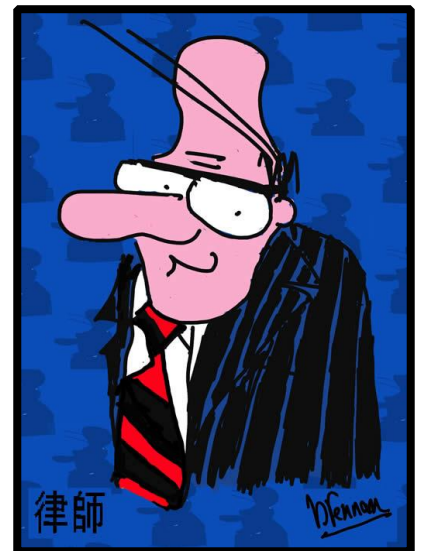
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For further information on the events, book launch or other matters referred to in this ezine please go to www.lawanddisorder.com.au.

The Law & Disorder eZine attempts to provide legal information in an entertaining and amusing manner to help clients avoid predictable legal issues.



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Thy Will be done: The 10 Commandments of Will Disputes



Winston Churchill once said "saving is a fine thing. Especially when your parents have done it for you."

Today, there is a lot more money around to argue about. A death in the family can be a slow motion train wreck which has been coming for years. Different members of the family have diverse interests in the outcome.

Lawyers can sort it out in the end, one way or another, but it may be helpful for the family members to know in advance what will happen if they carry on down the track.

Here are the ten things that you need to know:

1. **A person left entirely out of a Will is likely to make a claim** - A Deceased's right to leave their money to whoever they please has been eroded. Close relatives can make a claim. It is best to make some payment to try and deter that person from making a claim.
2. **Mediations work. It is difficult to say why** - In the 80s, we did not do Mediations. Ninety-nine per cent of matters settled a few days before the trial or on the steps of the court. Now Mediations can bring a dispute to an earlier and cheaper conclusion. Mediations are draining as they often take a full day. Success can turn on what time the car park closes or the traffic conditions.
3. **Bad conduct must be really bad to disentitle a person left out of a Will** - The family black sheep is often left out of the Will for good reason, but his behaviour may not be enough to have him disentitled completely. In fact, the more hopeless he (or she) is the more assistance they may be awarded. So make sure the

behaviour is well proven and supported by a statutory declaration from the Testator who will not be around to give evidence when required.

4. **A Will is not always the answer; it can be the problem** - If there is no Will and you are the closest relative you are in pole position to inherit. A Will allows the Deceased to give your inheritance to someone else. A donation to a good cause does not seem to be such a good idea when it is your inheritance.

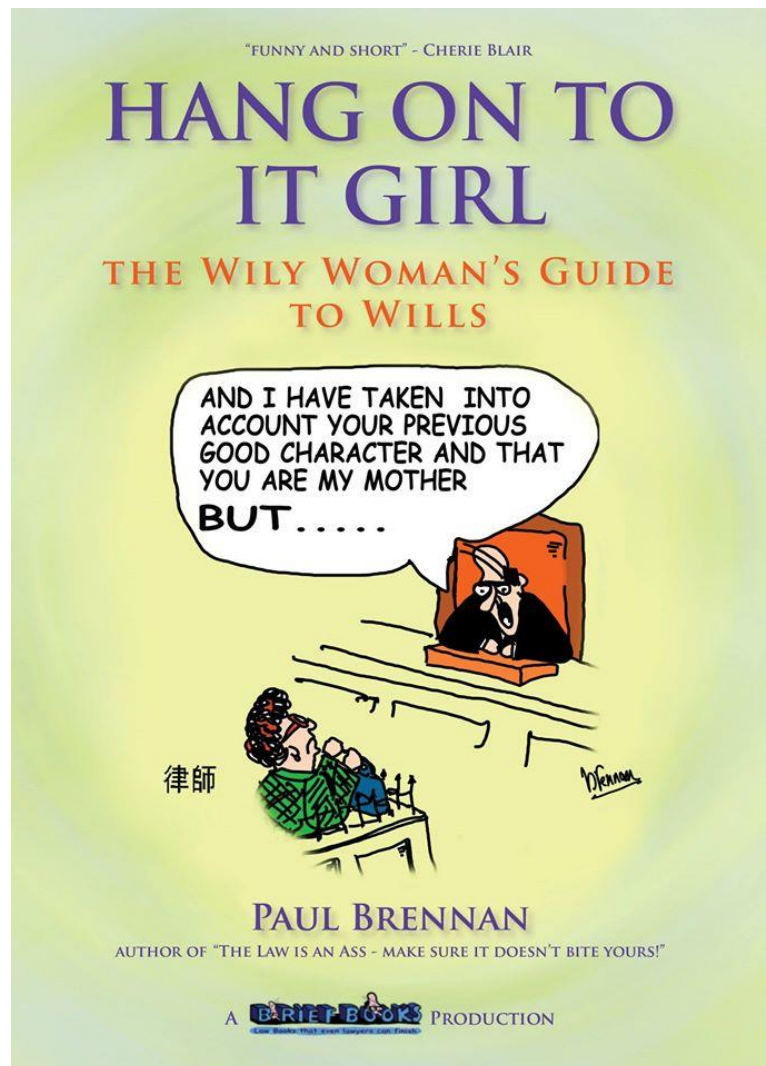
5. **Mental incapacity is much harder to prove than you think** - When someone is left out of a Will, this can seem a

crazy decision, especially if the Deceased is of advanced in years. But suspicion is not enough; solid evidence is required.

6. **The Will only covers the assets of the Estate** - Properties held as joint tenants, and trusts (including superannuation) are not part of the estate. This can have unexpected consequences.

7. **Promises made outside a Will can be binding** - Anyone who has seen the film "Monty Python and the Holy Grail" may recall the Lord of the Manor taking his son to the window and saying "One day son, this will be all yours!" to which the son replied "What, the curtains, Father?". If the father reneged on that promise in his Will, his estate could be forced to honour it. Conditions apply.

8. **A Will can be changed after the maker loses capacity** - Most clients have Enduring Powers of Attorney so that money can be moved around even if they have lost capacity. This may be enough, but if your inheritance is going to the wrong person through a quirk of fate it may be possible to get the will changed.



9. **A Will no longer needs to be as formal** - This less formal approach may be fairer but has the potential for more disputes. The beneficiaries of a formal will can be disappointed by a later document which trumps the formal will.
10. **Have a thought for those left behind** - If a death in the family results in a war zone with the attendant legal costs and bad feeling, something has gone badly wrong. The Deceased's memory will be tarnished. Try to keep it simple. Testators should not leave the Will to the last minute, especially if their judgement is declining.

The issues which lead to a Will Dispute are predictable and therefore could be avoided with the appropriate advice and timely action. But what fun is that?

The Will of a well-known Wall Street Stock Broker

To my wife, I leave my lover, and the knowledge that I wasn't the fool that she thought I was.

To my son, I leave the pleasure of earning a living. For thirty-five years he thought the pleasure was mine. He was mistaken.

To my daughter, I leave \$100,000.00. She will need it. The only good piece of business her husband ever did was to marry her.

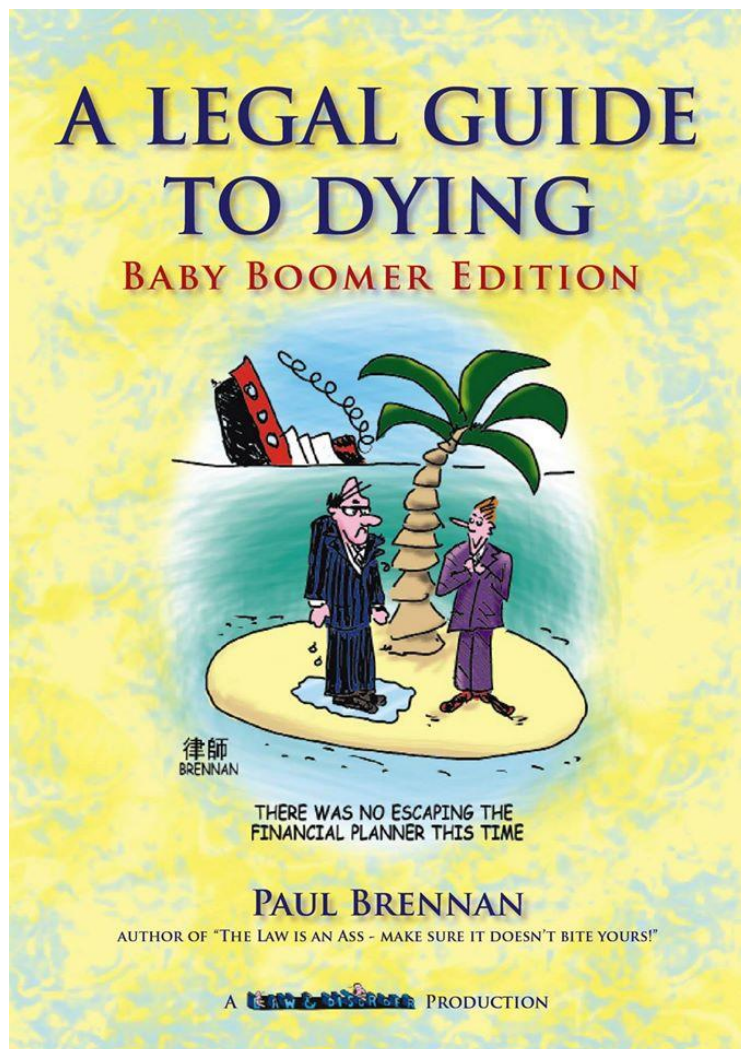
To my valet I leave the clothes he was stealing from me for the past ten years.

To my chauffeur I leave my cars. He almost ruined them and I want him to have the satisfaction of finishing the job.

And lastly, to my partner, I leave the suggestion that he take somebody else into business with him if he ever expects to do any business.

Anon.

Extract from www.101reasonstokillallthelawyers.com



The Business Networking Group presents:

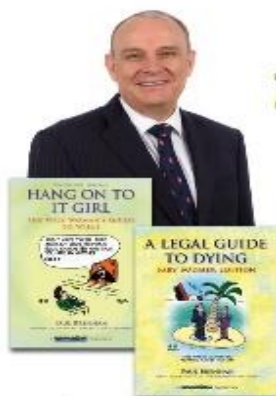
"Thy Will be Done: The 10 Commandments of Will Disputes" Breakfast Event.

Tuesday, 25 October, 2016 from 7:15am for a 7:30am start to 8:30am at the Best Western Hotel, Lake Kawana.

In an entertaining and humorous style, using case law and case studies, Paul Brennan will highlight the ten legal things that you need to know to either ensure that your Will will be done correctly or to prevent someone else's Will being done to your detriment.

Book at: <http://www.eventbrite.com/e/thy-will-be-done-by-paul-brennan-tickets-28415876652>

For further information please call Peter Brown on 0437 562 464, or email: peter@amberwerchon.com.au.



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THY WILL BE DONE : THE TEN COMMANDMENTS OF WILL DISPUTES

Presented by Paul Brennan

In entertaining, humorous style, using case law and case studies, Paul highlights the ten legal things that will ensure that your will is done or stop your inheritance being given away.

Paul is a commercial and litigation lawyer and also known as a humorous speaker. Paul is the author of several books including "Hang on to it girl...the Wily Woman's Guide to Wills" and the ebook "The Legal Guide to Dying...Baby Boomers Edition".

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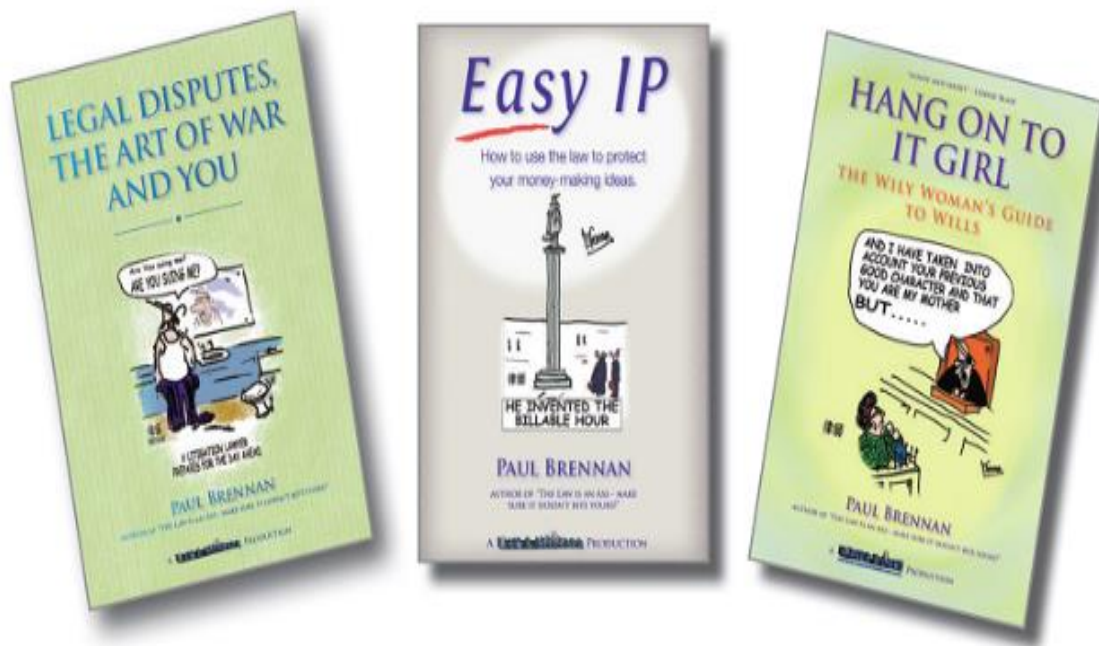
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For more information about Paul's books go to <http://www.amazon.com/Paul-Brennan/e/B001KMQFEC>



Disclaimer:

The content of the Law & Disorder eZine is to give you legal basics and in some instances included unashamedly to try and make you laugh. In law it is sometimes difficult to work out what is serious and what is just for fun. Therefore, if you plan to do anything legal, rely on your own lawyer's advice or instruct me to look at the particular facts of your case. Not only will I deny responsibility for the legal content but also for some of the jokes.

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