

Fall Newsletter

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Our Practice Areas:

Business Law
Civil/Criminal Law
Estate Planning
Family Law
Personal Injury
Traffic Law
Wills and Estate

Internet **WILL** -- We Won't

People use the Internet in ways that are very beneficial. However, if you want your property to go to the people you want to receive it when you die, using a will form you found on the Internet is risky and not a good choice. As a consequence of preparing your will from a form available on the Internet, your property may not go to your intended beneficiaries.

Below are a few examples:

1. You need a lawyer to make sure that the will you sign meets Maryland State laws which are not difficult to follow but, without the expertise of a lawyer, you may find that your will is not valid under Maryland law. If your will is not valid in Maryland, then you have died without a will. The laws in Maryland set out who will inherit your estate when you die without a will. This is called dying "intestate". Let's assume you are married and have children and you do not have a valid will. Upon your death, your children will receive 2/3rds of your estate and your wife will receive 1/3rd of your estate -- certainly not the outcome you expected.
2. Let's assume that you have two adult children who have children, (your grandchildren). In the event of your death and your children's deaths, do you want your grandchildren to receive their parent's share, which means the grandchildren receive their parent's share by representation? Alternatively, do you want all of the grandchildren to receive a share based on the total number of grandchildren? That is called per capita, meaning that if there are a total of five grandchildren, each receives not their parent's share but the amount of the estate divided by five. The Internet will form you use may not offer these alternatives and without consulting an attorney, you may not understand the significance of these options. **(CONTINUE OF PAGE 2)**

Can a Verbal Agreement for More Than One Year be Enforceable?

A boyfriend and girlfriend go to a dealership to purchase a vehicle. The girlfriend does not have bad credit but has no credit history. The intent of the parties is for the vehicle to be titled in the girlfriend's name with the boyfriend as a co-signer, if necessary. The parties submit credit applications and it is determined by the dealership that the girlfriend cannot purchase the selected vehicle individually. However, there are two options offered by the dealership. One is for the vehicle to be titled in both the girlfriend's and the boyfriend's names with financing at 21% per annum or to title the vehicle solely in the boyfriend's name at 7.14 % per annum.

The parties have a verbal agreement in 2012 as follows: Because of the enormous savings of the lower interest rate of 7.14%, the vehicle will be solely titled in the boyfriend's name and the girlfriend shall make all the monthly payments, insure the vehicle, and maintain the vehicle. Once the vehicle is paid off by the girlfriend, the boyfriend shall assign the title to the girlfriend.

The dealership proceeds with setting up financing and the title in the boyfriend's name. The girlfriend performed as agreed in that she made all payments on the financing of the vehicle and insured and maintained the vehicle that was solely in the boyfriend's name.

The now ex-girlfriend, after making the last payment, sought to have the vehicle assigned/the title transferred to her but her ex-boyfriend is now unwilling to transfer title. The vehicle is in the physical possession of the ex-girlfriend. The ex-boyfriend then files a replevin action in the District Court to obtain possession of the vehicle which is still in his name. (Replevin actions are typically brought by the title owner to obtain possession of their property.)

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AND THEN THERE WERE TWO !!!

In our last newsletter edition, there were over 25 candidates hoping to sit in the chair atop the Nation as President. We are down to two primary candidates, Hilary Clinton and Donald Trump. While we know where both stand on the majority of the topics that will be discussed leading up to November, here are some interesting facts that may not influence your vote, but may get you some points in a trivia game one day:

Hillary Clinton

Former US Secretary of State (New York)

- Growing up, Clinton wanted to be an astronaut—so much that she wrote a letter to NASA. Their response was less than ideal: “Thank you very much, but we’re not taking girls,” the administration said.
- Clinton is a Grammy winner. In 1997, she received the award for Best Spoken Word or Non-Musical Album for the audio version of her 1996 book, *It Takes a Village*.
- Hillary Clinton wrote to NASA as a child inquiring how to become an astronaut. NASA replied that girls could not be astronauts in their program.
- Hillary was among only 27 women in a class of 235 at Yale Law.
- She carries hot sauce in her purse.
- During the summer of 1969, she worked briefly in an Alaska processing plant gutting and canning salmon.

Donald Trump

Businessman Donald Trump (New York)

- Trump doesn’t drink alcohol. He made this decision as a result of losing his brother to alcoholism.
- He has a star on the Hollywood Walk of Fame.
- Donald Trump used to own the New Jersey Generals of the United States Football League
- Trump is germophobic and dislikes shaking hands.
- Trump owns 15 golf courses located in the United States and around the world.
- He hosted the reality TV show the apprentice for 14 seasons and stopped in 2015 because of his presidential campaign.

Internet WILL—We Won’t (Cont. From Pg.1)

3. Successor in interest beneficiary. You set forth in your will, “I leave to my son James all of my stocks held at T. Rowe Price and my 2016 Telsa automobile”. Your son does not survive you, you do not update your will, and at the time of your death in 2027 you no longer own your 2016 Telsa but you now own a 2026 Chevrolet and a 2017 Jeep. You could have provided a better description of who gets all the stock by saying, “In the event my son James does not survive me, my stock held at T. Rowe Price goes to my son James’ children” or to another designated beneficiary. Otherwise, when you don’t name a successor beneficiary, the property will go to the heirs of your son James. The heirs of James could be his spouse as long as they are still married and have no children; or if James left a surviving wife and children, then his heirs are his wife and your grandchildren. Since you no longer owned the 2016 Telsa at the time of your death, no vehicle(s) goes to son James. However, if the will were drafted as “to my son James I leave all of my automobiles”, then James would receive the Chevrolet and the Jeep. Here again, a will form you find on the Internet may not avoid this pitfall.

4. Financially well off individuals can make some pretty bad decisions even though they can afford legal advice. Here is an example about a well-to-do couple who had valid wills, free of the problems described above, because they went to their attorney to have their wills prepared. The couple was in their late sixties and had forgotten that thirty years ago they took furniture into Canada when they purchased a summer home there. They drove their car with a trailer on the back, staked with old furniture that each had inherited from their parents. At the Canadian border the border guards saw the property in the back of the trailer and told them they owed Canada a property tax of \$87.00. The couple asked the border guards if there was a way to save the property tax. The border guard said that if they made Canada their residence and domicile, they could escape paying the property tax. “Domicile” means your permanent residence. Your permanent residence is where your will is to be probated. The couple’s permanent residence they thought was Maryland, however, they had signed documents at the border saying that Canada was their permanent residence/domicile. As a result, their estate, including real property in

Maryland as well as personal property, would be probated in Canada. Fortunately, before the couple died, they went to their lawyer to update their wills and were advised by their lawyer to go to Canada and rescind the documents, pay the property tax, and thereby avoid the domicile problem. If they had not gone to an attorney but had prepared their wills using a form found on the Internet, this “domicile” problem may never have come to their attention!

Above are some examples of how using wills found on the Internet and signing them without consulting any attorney may result in unanticipated problems when the will is probated and direction of your property to unintended recipients.

When we provide estate planning advice and will preparation for our clients, we also offer additional legal services such as having our office prepare the following documents in addition to a last will and testament:

- Power of Attorney, now called Personal Financial Power of Attorney (a major revision occurred in 2010)
- Advance Medical Directive
- Testamentary or *Inter vivos* Trusts

Fred Antenberg has been advising clients and preparing wills for over 30 years in Howard County, Maryland, and the surrounding counties of Maryland and Baltimore City. **Contact Fred for a free initial consultation by calling 410 730 4404.**



MOWERMAN – A Testimonial

My 4-year-old Honda self-propelled lawn mower had not been serviced. MowerMan came to my residence and did a great job in servicing it. It cost more than taking it to Burtonsville but taking a 90-pound mower for service and returning to pick it up would not have been cost-effective for me.

Call MowerMan at 301-384-6290.

Can a Verbal Agreement for More Than One Year be Enforceable? (Cont. From Pg. 1)

The court sets up a Show Cause Hearing and the court grants possession of the vehicle to the ex-boyfriend but requires the ex-boyfriend to post a bond in the amount of \$13,000. He does not do this so the possession of the vehicle remains in the possession of the ex-girlfriend.

A trial on the merits is set in order to have the court decide whether the ex-boyfriend should get the vehicle back.

This is an actual case for which I was retained after the Show Cause Hearing and time had elapsed so that requesting discovery such as Interrogatories had passed as well as the right to obtain record depositions of bank records and to file a counter-complaint.

One of the major problems in this case was that there are laws against verbal agreements that require a verbal agreement to be performed within one year of the making of the verbal agreement or it is likely to be unenforceable. In other words, if the verbal agreement takes a year or more from its making to be completed, it must be in writing to be enforceable. There are exceptions following theories in the law called "equitable relief". Equitable relief permits a party who has partly performed under a verbal contract to use this legal theory to prevail. Usually the standard of evidence in a civil case requires the party seeking relief (the ex-girlfriend) to provide the preponderance of evidence (that is more likely than less likely that the evidence will be believed and quantitatively 51%) However, the standard is higher for evidence in cases where equitable principles are applied. The level is called "by clear and convincing evidence", meaning the evidence must be unequivocal, credible, and if both parties have opposite testimony, the Court may take the position that the ex-girlfriend has not met her

burden of proof.

I did file a motion by what is called "leave of court" to be permitted to file discovery, a counter-claim, and seek the circuit court to hear the case because the damages were in excess of the court's jurisdiction, however my motion was denied.

How we prevailed.

I subpoenaed bank records from the banks from which payments were made.

My client's (the ex-girlfriend's) bank records showing all of her payments were obtained by subpoena.

I subpoenaed the payment records from the ex-boyfriend's financing company as well as records from the dealer where the vehicle was purchased.

I subpoenaed the ex-boyfriend to bring to the merit's hearing all records of his alleged payments which he did not have (because he most likely hadn't made any payments).

Also, I had co-counsel at trial who did a great job.

At trial the ex-boyfriend testified that the ex-girlfriend was not the customer but we had certified records from the dealership, under affidavit, which showed that the ex-girlfriend was also the customer. He further testified that he had made the payments in cash but had no receipts, and he was not a credible witness.

The Court determined that the ex-boyfriend had not met his burden of proof and therefore he was not granted possession of the vehicle. He agreed to sign over title to the vehicle and did so.

This case was unusual in many ways, including that verbal agreements that require performance for more than a year are very hard to prove and that I was brought in after the time had passed to perform discovery and obtain very important information ahead of the trial date.

Also, the Court, on the date of trial, grants the attorney and or parties to view the subpoenaed documents only in the courtroom.

Fred Antenberg has experience in handling cases wherein a verbal agreement that is more than a year from its making needs to be enforced as well as obtaining the return of engagement rings that are conditional gifts (with some exceptions).

Call Fred today for a free initial consultation at 410 730 4404.



YOU DON'T ALWAYS GET WHAT YOU PAY FOR! OR DO YOU?

I purchased eyeglasses from Costco that were prescribed by an ophthalmologist. Costco's price for the eyeglasses was \$183. The doctor's office wanted to charge me \$550. WalMart's price for the eyeglasses was \$325.

All three retailers offered titanium frames. All three retailers, in my opinion, offered me the same services and eyeglass features.

Next time you need eyeglasses, go to Costco!

DON'T FORGET TO STAY CONNECTED!!



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- **facebook.com/FGALAW**
- **@FGALAW**

RAVENS ARE BACK!!!

WEEK 1
vs. Bills
Sun., Sept. 11 | 1:00 pm
M&T Bank Stadium
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



WEEK 2
at Browns
Sun., Sept. 18 | 1:00 pm
FirstEnergy Stadium
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



WEEK 3
at Jaguars
Sun., Sept. 25 | 1:00 pm
EverBank Field
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



WEEK 4
vs. Raiders
Sun., Oct. 2 | 1:00 pm
M&T Bank Stadium
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



WEEK 5
vs. Redskins
Sun., Oct. 9 | 1:00 pm*
M&T Bank Stadium
FOX (WBFF-TV) | 98 Rock | WBAL 1090 AM



WEEK 6
at Giants
Sun., Oct. 16 | 1:00 pm*
MetLife Stadium
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



WEEK 7
at Jets
Sun., Oct. 23 | 1:00 pm
MetLife Stadium
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



WEEK 9
vs. Steelers
Sun., Nov. 6 | 1:00 pm*
M&T Bank Stadium
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



WEEK 10
vs. Browns
Thu., Nov. 10 | 8:25 pm
M&T Bank Stadium
NFL Network | 98 Rock | WBAL 1090 AM



WEEK 11
at Cowboys
Sun., Nov. 20 | 1:00 pm*
AT&T Stadium
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



WEEK 12
vs. Bengals
Sun., Nov. 27 | 1:00 pm
M&T Bank Stadium
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



WEEK 13
vs. Dolphins
Sun., Dec. 4 | 1:00 pm*
M&T Bank Stadium
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



WEEK 14
at Patriots
Mon., Dec. 12 | 8:30 pm
Gillette Stadium
ESPN | 98 Rock | WBAL 1090 AM



WEEK 15
vs. Eagles
Sun., Dec. 18 | 1:00 pm*
M&T Bank Stadium
FOX (WBFF-TV) | 98 Rock | WBAL 1090 AM



WEEK 16
at Steelers
Sun., Dec. 25 | 4:30 pm
Heinz Field
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



WEEK 17
at Bengals
Sun., Jan. 1 | 1:00 pm*
Paul Brown Stadium
CBS (WJZ-TV) | 98 Rock | WBAL 1090 AM



***The Law Office of Fredric G. Antenberg
invites you to contact our office:***

***www.fgalaw.com
(410)730-4404***

HOPE YOU ENJOYED YOUR SUMMER!!!!

The Law Office of Fredric G. Antenberg

5071 Bucketpost Court
Columbia, MD 21045