Legal Costs Associated with Will Disputes

Date : July 12, 2023

Legal Costs Associated with Will Disputes

Will disputes occur when there is a disagreement or a perceived slight concerning the deceased and the wishes they had left in their will. Whether it be a son, cousin or distant relative, anyone who was a dependent on the deceased may make a claim against the estate.
The executor in the matter must defend these claims as they hold a duty to ensure that the testator's last wishes are fulfilled per the will that they had left. The legal costs that are accrued by the executor in defending such claims or by the claimant in bringing these claims to court are often big amounts and paid out of the estate.
To preserve the estate, ensuring that the deceased's hard-earned money and assets are distributed according to their wishes, the best way is to begin with a clear and well defined will. This reduces the chance of will disputes occurring in the first instance. By ensuring that your wishes are well defined with no ambiguity, there is less possibility of a potential claimant declaring that they have not been considered or provided for.
A professionally made will also removes the potential of claims as to the validity of the will being raised. This brings into dispute whether the executors have the right to deal with the estate's assets or money. If such a dispute arises, the conflicting parties are required to fund their cases on their own.
In these types of conflicts, the named executors are not entitled to use the estate money to defend such claims of validity of the will, which in turn questions the validity of their appointment as executors. The case of Gooley v Gooley (2020) states that the named executors have no authority to pay their legal costs of the proceedings from estate funds until such an order is made by the court.
Our will lawyers are specialists in drafting and creating estate planning documents, considering factors that may bring capacity into question and experienced in will disputes, which enable us to provide you with advice in relation to any potential claim against your estate and options to avoid such potential claims.

More Information

If you wish to obtain further information, advice or assistance in updating your Will, please contact one of our Will Lawyers in our Wills and Estates team at Matthews Folbigg on 9635 7966, email us at estates@matthewsfolbigg.com.au or through the website www.matthewsfolbigg.com.au

DISCLAIMER: This article is provided to readers for their general information and on a complimentary basis. It contains a brief summary only and should not be relied upon or used as a definitive or complete statement of the relevant law. Liability limited by a scheme approved under Professional Standards Legislation.