

Legal Update

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DO-IT-YOURSELF ONLINE LEGAL ADVICE: PENNY-WISE BUT #FOOLISH?

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The Internet allows you to attempt to “do-it-yourself” for just about anything. This includes legal services. Worried about providing for your loved ones? For the low price of \$69, you can order a will online, albeit without ever consulting a professional regarding your estate planning goals. Feeling entrepreneurial? A quick Google search for an LLC operating agreement returns over 10 million results from which you can choose a template for your tech start-up based on the same form someone used yesterday for a grocery distributor. Print, sign, read a couple blog posts about common legal drafting mistakes, and voilà – you can have a legally binding document. But should you do-it-yourself? Might your savings from not hiring an attorney on the front-end pale in comparison to the eventual legal costs and grief you will incur to clean up the mess? Or, might you position yourself to benefit or profit more handsomely if you had planned ahead with legal counsel?

For example, in *Webster v. LegalZoom.com, Inc.*, California do-it-yourselfers filed a class action lawsuit. They alleged that they believed they were purchasing customized legal documents similar to documents an attorney would have prepared, but instead received forms that merely plugged in their names and identifying information rather than taking into account their unique circumstances. The lead plaintiff allegedly helped her dying uncle use the defendant’s service to create a living trust of which she was co-trustee, but she was unable to transfer any of her uncle’s assets into the living trust because his financial institutions refused to accept the documents as valid, and the online service was unable to assist her in revising them. The trust, she alleged, was still not funded when her uncle died, and she was forced to pay an attorney thousands of dollars to, among other things, petition a probate court to allow the trust to be funded post-mortem.

In our experience, do-it-yourself legal forms end up costing our clients far more than they save. There is no guarantee that your online legal advice will be correct, complete, or even up-to-date. Even do-it-yourself legal services websites have revealed that 80 percent of people who fill in blank forms to create legal documents do so incorrectly. While the initial lower costs of a do-it-yourself legal document may seem alluring, sooner or later, you will likely need to consult with an attorney due to problems that can arise from the shortcomings of a generic legal document.

Even in less extreme cases, online forms often overlook opportunities or additional protections or fail to provide for contingencies and future problems. The problem predates online do-it-yourself services. For example, Charles Kuralt, the CBS News correspondent and anchor, wrote a note promising to leave his mistress 90 acres in Montana. After he died, his family and his mistress spent years in court fighting over whether this note was a valid amendment to his will (that a lawyer had prepared). The court decided to award the mistress the \$600,000 property, but then stuck his family with all of the estate

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taxes. Some may believe that online legal forms provide a middle ground between Mr. Kuralt's informal note and a document prepared by a licensed attorney, but this is not necessarily the case. Even if it has the cosmetic appearance of an "official" legal document, a do-it-yourself legal document may not be comprehensive, consider potential tax consequences, or be fully customized to your situation. This can cost you, or your family, more in the long run.

There are several other pitfalls one may encounter when relying on the Internet to create legal documents. First, the law is not static. The sample form that you use, or the advice that you read online, may be outdated or exclude updates or amendments to existing laws. Second, the law usually varies from state to state. The form that you find may comply with the law of one state but violate the law of your state. Third, the form may also simply omit nuanced aspects of the law that require a more personalized legal strategy, such as preserving preferential tax treatment for you and your company. Fourth, the form may be too generic and not sufficiently tailored to your particular needs. For example, if you use a sample real estate contract, it may be missing customized provisions or special addendums that discuss specific buyer's or seller's obligations before closing. Instructional articles that you find online also may not be up-to-date or state-specific, may be written for a legal audience and use terminology easily misunderstood by non-attorneys and, of course, are not written with your individual needs in mind. A one-size-fits-most approach may not be ideal when you are contemplating a complex transaction, and you could wind up spending more money trying to revise the form that you found for free or, worse yet, paying for unnecessary litigation.

Before relying on generic legal advice and templates, those in need of legal services should protect themselves by seeking advice from a competent attorney.

FVLD publishes updates on legal issues and summaries of legal topics for its clients and friends. They are merely informational and do not constitute legal advice. We welcome comments or questions. If we can be of assistance, please call or write Jon Vegosen 312.701.6860 jvegosen@fvldlaw.com, Seth A. Stern 312.701.6837 sstern@fvldlaw.com, Cecilia M. Sub 312.701.6841 csub@fvldlaw.com, or your regular FVLD contact.

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