



Wills in Connecticut

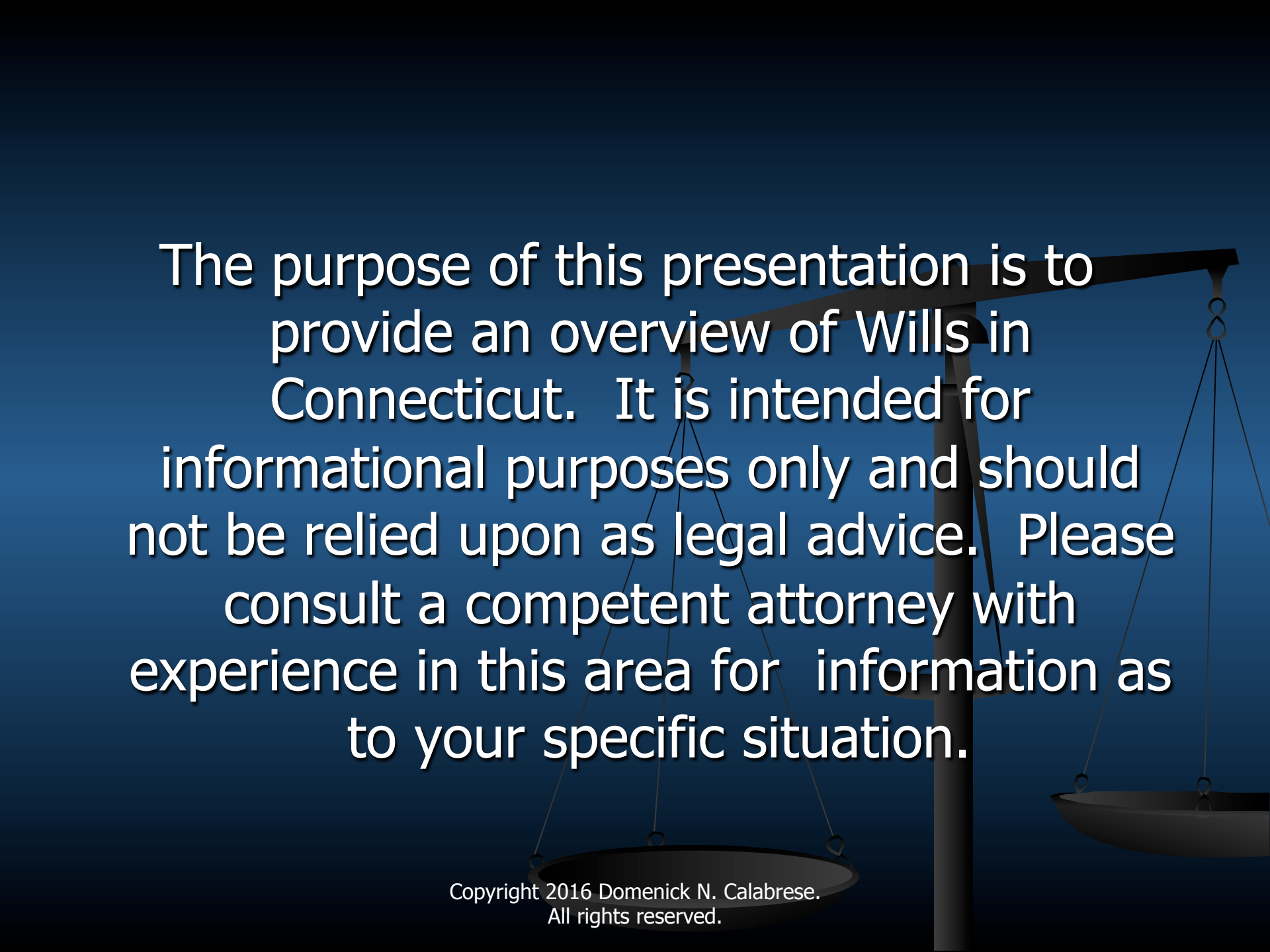
Hon. Domenick N. Calabrese, Judge

Region #22 Probate District

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Seminars

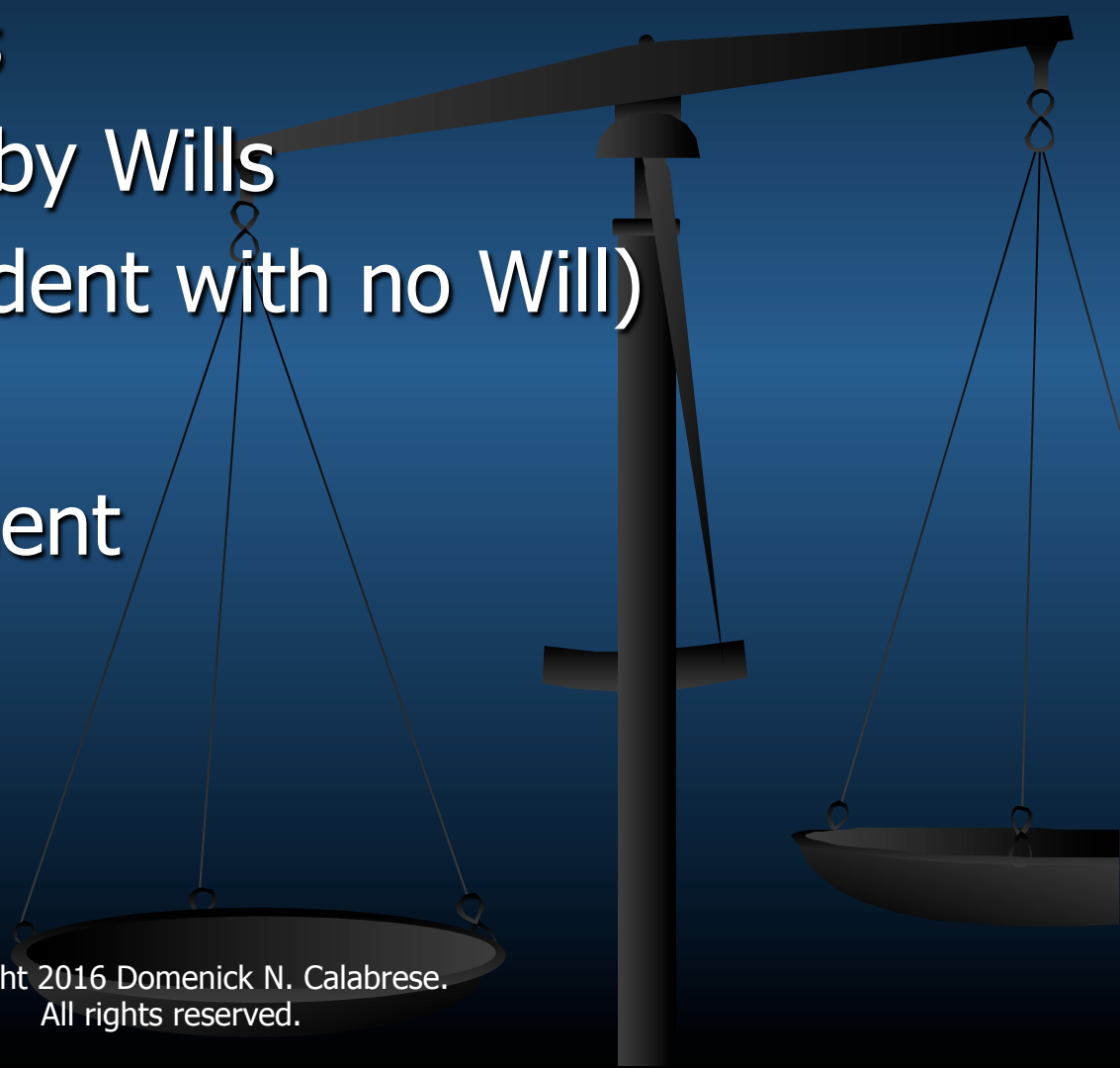
- Living Trusts
- Real Estate & Probate
- Probate After the Death of a Loved One
- Probate & Unclaimed Property
- Incapacity, Conservatorships & the Probate Court
- Conservatorships
- Estate Taxes in Connecticut
- Guardianships
- Probate Reform
- Wills in Connecticut



The purpose of this presentation is to provide an overview of Wills in Connecticut. It is intended for informational purposes only and should not be relied upon as legal advice. Please consult a competent attorney with experience in this area for information as to your specific situation.

Agenda

- Purpose of Wills
- Assets covered by Wills
- Intestacy (decedent with no Will)
- Tax planning
- Asset management
- Advantages
- Disadvantages



Wills in Connecticut Why a Will?

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WHY A WILL?

- Ensure assets go to those whom you want to receive them
- Ensure loved ones are provided for after your death
- Provide for the management of assets for the benefit of loved ones
- Estate planning
- Tax planning
- Nominate a guardian of minor children should both parents die

WHY A WILL?

- Allows for choice of Executor
- Allows for choice of alternate or successor Executor
- May provide for disinheritance of heirs
- Peace of mind



Wills in Connecticut

Assets Covered by a Will

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ASSETS COVERED BY A WILL



- Solely-owned assets only
- A will does not determine the disposition of:
 - Survivorship property
 - Life insurance on the life of the decedent for which the beneficiary survives the decedent
 - Retirement assets with a named beneficiary who survives the decedent
 - Assets in a trust at the time of the decedent's death

Wills in Connecticut Intestacy

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INTESTACY

- What happens when a Connecticut resident dies and there is no will?
- Laws of intestacy determine distribution of decedent's assets
- Very fact specific

INTESTACY

■ Example:

- Leo & Marilyn – married with 3 children
- Leo passes away, survived by Marilyn and the three children
- At the time of his death, Leo has \$120,000 in assets in his name only

INTESTACY

- Fact Pattern 1: Marilyn is the mother of the 3 surviving children
- Asset division:
 - Marilyn receives \$110,000
 - Three children each receive \$3,333

INTESTACY

- Example 2: Marilyn is not the mother of one of Leo's surviving children
- Asset division:
 - Marilyn receives \$60,000
 - Three children each receive \$20,000

Wills in Connecticut **Tax Planning**

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TAX PLANNING

- 2015 Estate tax exemptions:
 - State of Connecticut: \$2 MM
 - Federal Government: \$5.37 MM
- Exemption is unlimited for property passing to decedent's spouse

TAX PLANNING

- Example:

- Jeff & Kathy (married couple) have 3 children together
- Jeff passes away with \$5.5 MM in assets in his name alone

TAX PLANNING



- Fact Pattern 1:
 - Jeff's will provides all his assets (\$5.5 MM) get distributed to his wife Kathy
 - No federal or state estate tax, even though the amount passing is above the state and federal exemptions
 - Issue: Jeff's state estate tax exemption is "lost" and when these assets are passed on to the children, they may be subject to estate tax, depending on a number of factors

TAX PLANNING



■ Fact Pattern 2:

- Jeff's will provides that \$2.0 MM (or some other amount) will be transferred into a qualifying trust.
- The purpose of the trust is to preserve the maximum amount of the Connecticut estate tax exemption
- Kathy may receive income from the trust, and any amounts above and beyond the exemption may go directly to Kathy with no estate tax due on Jeff's death



Wills in Connecticut
Asset Management

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ASSET MANAGEMENT



- Will may include trust(s)
- Trusts can also be used to manage assets for the benefit of a loved one during the loved one's lifetime, during their youth, for the protection of a loved one against creditors (or others), for a specific purpose (e.g., college or other education), or for a number of other purposes



Wills in Connecticut
Advantages of Wills

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ADVANTAGES OF WILLS

- Provides for disposition of all solely-owned assets
- May provide for guardian of minor children
- Probate Court oversight
- Estate tax deferment possible
- Generally inexpensive to draft
- Flexible: easy to revise or change

ADVANTAGES OF WILLS

- Does not require changing ownership of assets
- Allows testator to retain full control of assets during his/her lifetime
- Allows utilization of trusts
- Component of a comprehensive estate plan
- Cannot be challenged beyond appeals period once admitted to the Probate Court



Wills in Connecticut

Disadvantages of Wills

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DISADVANTAGES OF WILLS

- Probate Court oversight = open to public scrutiny
- Form is very important – Connecticut does not recognize holographic wills
- Transfer of assets subject to probate court approval
- Cannot provide for management of assets during disability of the testator
- Subject to challenge in Probate Court

DISADVANTAGES OF WILLS



- Only the original will has legal effect – photocopies are not recognized except under limited circumstances
- Ever-changing Federal and State Estate Tax schemes make it difficult, if not impossible, for tax planning with absolute certainty (not unique to wills, however)
- Divorce, and after-born (or adopted) children may serve to negate certain will provisions

DISADVANTAGES OF WILLS

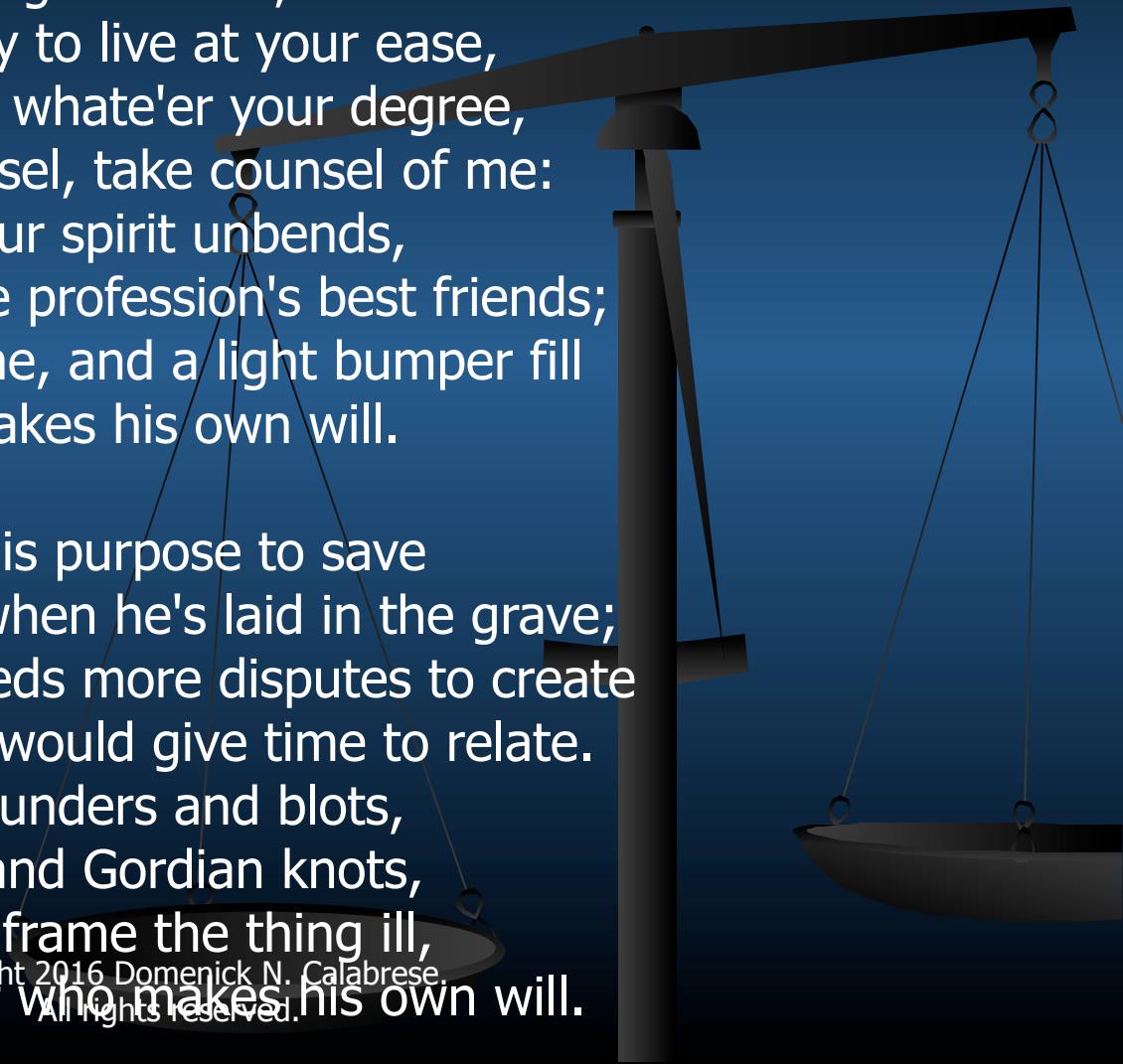
- Probate process for full administration may take 8-12 months and usually requires the services of an attorney

The Jolly Testator Who Makes His Own Will

Lord Neaves

Ye lawyers who live upon litigants' fees,
And who need a good many to live at your ease,
Grave or gay, wise or witty, whate'er your degree,
Plain stuff or Queen's Counsel, take counsel of me:
When a festive occasion your spirit unbends,
You should never forget the profession's best friends;
So we'll send round the wine, and a light bumper fill
To the jolly testator who makes his own will.

He premises his wish and his purpose to save
All dispute among friends when he's laid in the grave;
Then he straightway proceeds more disputes to create
Than a long summer's day would give time to relate.
He writes and erases, he blunders and blots,
He produces such puzzles and Gordian knots,
That a lawyer, intending to frame the thing ill,
Couldn't match the testator who makes his own will.



Wills in Connecticut Questions

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