Last Will and Testament

of

hubby

*Prepared by #attorney*



**Last Will and Testament**

**of**

**hubby**

I, **hubby**, a resident of and domiciled in the County of counties and Commonwealth of Pennsylvania, make, publish and declare this to be my Last Will and Testament, revoking all wills and codicils at any time heretofore made by me. kiddies

**FIRST**: I direct that the expenses of my last illness and funeral, the expenses of the administration of my estate be paid out of my residuary estate. All taxes from non pobate property shall be paid by the recipient(s) thereof.

**SECOND:** I give all tangible personal property owned by me at the time of my death, including without limitation personal effects, clothing, jewelry, furniture, furnishings, household goods, automobiles and other vehicles, together with all insurance policies relating thereto, to my wife **wifey** if she survives me, or if she does not survive me, to personalty.

**THIRD**: I give all the rest, residue and remainder of my property and estate, both real and personal, of whatever kind and wherever located, that I own or to which I shall be in any manner entitled at the time of my death (collectively referred to as my "residuary estate"), to heirlooms.

**FOURTH**: If any property of my estate vests in absolute ownership in a minor or incompetent, the Personal Representative, at any time and without court authorization, may: distribute the whole or any part of such property to the beneficiary; or use the whole or any part for the health, education, maintenance and support of the beneficiary; or distribute the whole or any part to a guardian, committee or other legal representative of the beneficiary, or to a custodian for the beneficiary under any gifts to minors or transfers to minors act, or to the person or persons with whom the beneficiary resides. Evidence of any such distribution or the receipt therefor executed by the person to whom the distribu­tion is made shall be a full discharge of the Personal Representative from any liability with respect thereto, even though the Personal Representative may be such person. If such beneficiary is a minor, the Personal Representative may defer the distribution of the whole or any part of such property until the beneficiary attains the age of twenty-one (21) years, and may hold the same as a separate fund for the beneficiary with all of the powers described in Article SEVENTH hereof. If the ben­eficiary dies before attaining said age, any balance shall be paid and distributed to the estate of the beneficiary.

**FIFTH:** If any distributee hereunder, whether under this Will or any trust created hereunder, is or shall become disabled or incapacitated, institutionalized and/or shall be receiving nursing or other professional care "in home" or other out-patient basis, thereby entitling the distributee to public benefits including but not limited to Medicaid (Medical Assistance) and/ or SSI, the Personal Representative is authorized to distribute such share to which such distributee is entitled to a trustee for his or her benefit. The Trustee's discretion shall be sole and absolute. For the purposes of the beneficiary's continuing eligibility for public or private benefits, the trust estate shall not be counted as a resource available to the beneficiary, and distributions from the trust not counted as income to the beneficiary. The availability of public or private benefits to pay for a specific need, however, shall not deprive the Trustee of the authority, in the Trustee's discretion, to make distributions of trust assets for the specific need, even if the distributions cause the loss or reduction of public benefits. The trust shall be irrevocable and continue for the life of the trust beneficiary. Upon the death of the beneficiary, the trust shall terminate and the trust estate distributed to the beneficiary's lineal descendants, per stirpes unless the beneficiary shall have named, in writing, someone else.

**SIXTH**: I appoint **alabama** to be my Personal Representative. If **alabama** does not survive me, or shall fail to qualify for any reason as my Personal Representative, or having qualified shall die, re­sign or cease to act for any reason as my Personal Representative, I appoint **atlanta** as my Personal Representative. For any trust created herein, my Personal Representative shall designate a trustee, who may be himself or herself. The Trustee shall serve without bond and shall not be subject to the continuing jurisdiction of the court. If my Personal Representative acting as Trustee would cause any loss of any benefit, especially a governmental benefit to any heir hereunder, including my Personal Representative, or any significant or material loss to my estate, I empower a majority of the residuary beneficiaries to name the Trustee. I direct that no Personal Representative nor any trustee shall be required to file or furnish any bond, surety or other security in any jurisdiction.

**SEVENTH**: I grant to my Personal Representative all powers conferred on Personal Representatives under the Pennsylvania Probate, Estates and Fiduciaries Code, as amended, or any successor thereto, and all powers con­ferred upon Personal Representatives wherever my Personal Representative may act. I also grant to my Personal Representative power to disclaim any interest in property, real, personal, or mixed, and to retain, sell at public or private sale, exchange, grant options on, invest and reinvest, and otherwise deal with any kind of property, real or personal, for cash or on credit; to borrow money and encumber or pledge any property to secure loans; to exercise all powers of an absolute owner of property; to compromise and release claims with or without consi­deration; and to employ attorneys, accountants and other persons for services or advice. The term "Personal Representative" wherever used herein shall mean the executor, executrix, administrator or administratrix in office from time to time.

**EIGHTH**: If any beneficiary under this will and I die in a common accident or under circumstances in which it is diffi­cult or impractical to determine who survived the other, such beneficiary shall be deemed to have predeceased me.

**NINTH:**If, at the time of my death, it is determined by my Personal Representative, that my spouse is chronically ill, as that phrase is defined in section 7702(c)(2) of the Internal Revenue Code, my spouse must first survive me by one hundred seventy (170) days.  In the event my spouse does survive me by said period, I give, devise, and bequeath to my spouse, cash, securities, or other property of my estate, including, without limitation, personal property and effects, having a value equal to the amount, if any, that my spouse would be entitled to receive if my spouse exercised my spouse’s elective share rights as set forth in section 2201, et seq. of the Pennsylvania Probate, Estates, and Fiduciaries Code (the “PEF Code”); provided that the amount of this bequest shall be reduced to the extent my spouse has waived the right to elect under PEF Code Section 2207 or forfeited the right to elect under PEF Code Section 2208. In determining the amount of this bequest, my spouse shall be deemed to have elected, pursuant to PEF Code Section 2204(c), to retain all beneficial interests in property that my spouse would otherwise be required to disclaim if my spouse exercised my spouse’s elective share rights. Contingent upon my spouse surviving me by said one hundred seventy (170) days, it is my intention that, as a result of my death, my spouse shall receive property having a value equal to (but not more than) that which my spouse would receive if my spouse were to exercise my spouse’s elective share rights. The Personal Representative shall have the sole and exclusive discretion to select the assets that shall fund this bequest.  If my spouse does not survive me by one hundred seventy (170) days, this bequest shall be distributed as part of the residuary estate.

**IN WITNESS WHEREOF**, I, hubby sign, seal, publish and declare this instrument as my last will and testament this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

hubby

The foregoing instrument was signed, sealed, published and declared by hubby the above-named Testator, to be his last will and testament in our presence, all being present at the same time, and we, at his request and in his presence and in the presence of each other, have subscribed our names as witnesses on the date above written.

Witness: Witness:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: Address:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ACKNOWLEDGMENT AND AFFIDAVIT**

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| --- | --- |
| COMMONWEALTH OF PENNSYLVANIA | ) |
|  | ) ss: |
| COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | ) |

We, hubby \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Testator and the witnesses respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the Testator, hubby signed and executed said instrument as his last will and testament in the presence and hearing of the witnesses, and that he had signed willingly, and that he executed it as his free and voluntary act and deed for the purposes therein expressed, and that each of the witnesses at the request of the Testator, in the presence and hearing of the Testator and each other, signed the will as wit­ness, and that to the best of his or her knowledge the Testator was at the time at least eighteen years of age, of sound mind and under no constraint, duress, fraud or undue influence.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Testator

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness

Subscribed, sworn to and acknowledged before me by the said hubby, Testator, and subscribed and sworn to before me by the above-named witnesses, this \_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

My commission expires on