

Last Will Sample Indiana

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LAST WILL AND TESTAMENT OF JAMES ROBERT HEDGES

I, James Robert Hedges, a resident of Springfield, Indiana, being of sound mind and memory and at least eighteen (18) years of age, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all prior Wills and Codicils at any time heretofore made by me.

I am currently married to Elizabeth Faith Hedges who is referred to herein as "my spouse". I am the parent of the following children: James Robert, Jr., Sara Michelle, and Patrick Joseph. All references to "my children" shall include my current children listed herein as well as any biological children born to me after the date of execution of this Last Will or other children legally adopted by me after the date of execution of this Last Will.

ARTICLE I Personal Representative

I hereby name, constitute and appoint Laird Hamilton as Personal Representative to administer my estate. If Laird Hamilton shall fail, cease, or be unable to serve as Personal Representative for any reason, then Gabrielle Reece shall serve as successor Personal Representative of my estate. The term "Personal Representative" has the same meaning as the term "executor" herein.

Should the laws of the state in which my Last Will and Testament is probated allow it, then my Personal Representative shall not be required to furnish a bond for the faithful performance of his or her duties as Personal Representative.

In the event the laws of the state in which my Last Will and Testament is probated allow it, I authorize my Personal Representative to administer my estate independently without adjudication, order or direction of any court. The decision to administer my estate independently or under court supervision shall rest solely with my Personal Representative.

My Personal Representative shall be paid reasonable compensation for serving in this office.

**ARTICLE II
BURIAL / PAYMENT OF DEBTS**

- A. I hereby leave the details of my burial to my surviving family members. As soon as practicable after my death, I direct my Personal Representative to pay any expenses related to my burial, including any ceremony performed in conjunction with the burial. My Personal Representative is further authorized to pay honorarium to any clergymen in conjunction with my funeral and the travel costs of any beneficiaries of this Will who have traveled from their residence to attend my funeral.
- B. As soon as practical after my death, I direct my Personal Representative to pay any debt or claim which he/she or a court determines to be legally enforceable against my estate. In the absence of a court order, my Personal Representative shall have absolute discretion to determine that a debt is legally enforceable against my estate. However, if at the time of my death any of the real property herein devised is subject to a mortgage, I direct that the devisee taking said mortgaged property shall take it subject to such mortgage and that the devisee shall not be entitled to have the mortgage paid out of my general estate.
- C. All expenses of administration of my estate shall first be paid out of the residuary of my estate (Article V below) until exhausted, next out of charitable bequests found in Article III below until exhausted, and lastly out of specific bequests found in Article IV below.
- D. Direction to Pay All Taxes From Residuary of My Estate. I direct that all taxes of whatever kind be paid out of the residuary of my estate. The term "residuary of my estate" generally refers to those assets remaining after all debts and expenses of administration of the estate have been paid and, also, after payment of all charitable bequests made in Article III below and all specific bequests made in Article IV. Should the residuary of my estate be insufficient to pay taxes, the Personal Representative shall take pro rata from my charitable bequests made in Article III sufficient sums to pay the taxes. Should the taxes still not be satisfied after exhaustion of the residuary of my estate and my charitable gifts, the Personal Representative shall take pro rata from my specific bequests made in Article IV sufficient sums to pay the taxes. The Personal Representative is not to seek, through force of law, contribution for the payment of taxes from any of my beneficiaries or from individuals to whom I have made gifts during life unless directed to do so by court order.

**ARTICLE III
CHARITABLE GIFTS**

No provision for charitable gifts has been made in my Last Will.

**ARTICLE IV
SPECIFIC BEQUESTS OTHER THAN CHARITABLE**

- A. Personal Effects. I give and bequeath all my personal effects of every kind, and not otherwise named in Part B of this Article IV immediately below, to my spouse and, if she shall not survive

me, to my children in equal shares, per stirpes.

The term "personal effects" as used in this Article shall mean: "items of clothing, jewelry, mementos, personal papers, awards, photographs, and other similar items owned by me at the time of my death except that no single item shall be included in this category if it has a fair market value in excess of \$500."

ARTICLE V RESIDUARY ESTATE

I give and bequeath all of the rest, residue and remainder of my estate (after payment of all debts and expenses of my estate pursuant to Article II above and after all charitable and specific bequests found in Articles III and IV above) to my spouse and, if she shall not survive me, to my children in equal shares, per stirpes.

ARTICLE VI GUARDIAN OF MY CHILDREN

In the event I shall die as the sole parent of minor children (or simultaneously with my spouse), I nominate Rachel Hedges, my sister, to serve as the Guardian of the person and Conservator of the estate of each of my children and to serve as such without bond. The Guardian nominated under this will shall have the same authority with respect to the person of the ward as a parent having legal custody of a child. All powers granted to guardians in this paragraph may be exercised without court authorization.

ARTICLE VII BENEFICIARY FOR WHOM BEQUEST TO BE HELD IN TRUST

No provision has been made in this will for the Personal Representative to hold a bequest in trust until a beneficiary reaches a certain age.

ARTICLE VIII POWERS OF THE PERSONAL REPRESENTATIVE

A. I hereby grant to my Personal Representative with respect to any and all property which shall at any time constitute a part of my estate all powers granted to that office by the laws of the State of Indiana including the right to make all tax elections of any nature which in any manner effect my estate under federal or state law. These powers are exercisable at the discretion of my Personal Representative. In addition to any powers now or hereafter conferred upon the Personal Representative by law, the Personal Representative shall have the power to:

1. Sell estate assets at public or private sale for cash or on credit terms,
2. Lease estate assets without restriction as to duration, and

3. Invest any surplus money of the estate in real or personal property as the Personal Representative deems advisable.
- B. Furthermore, on any distribution of assets from the estate, the Personal Representative shall have the discretion to partition, allot, and distribute the assets in the following manner:
1. In kind, including undivided interest in an asset or in any part of it,
 2. Partly in cash and partly in kind, and
 3. Entirely in cash.
- C. For estate assets otherwise distributable to a minor beneficiary, the Personal Representative shall have the discretion to distribute said assets in one of the following manners:
1. To the guardian of the minor's person or estate,
 2. To any adult person with whom the minor resides and who has the care, custody, or control of the minor, or
 3. To a custodian of the minor under the Uniform Transfers to Minors Act.
- The Personal Representative is free of liability and is discharged from any further accountability for distributing assets in compliance with the provisions of this paragraph C.
- D. If a group of assets is distributable to more than one beneficiary, the Personal Representative shall have the discretion to distribute assets among them on a pro rata or non pro rata basis, with the assets valued as of the date of distribution.

ARTICLE IX MISCELLANEOUS

- A. In the event that any of my property, or all of it, at the time of my death is found by a court, or determined by the personal representative, to be community property under the laws of the appropriate state for this determination, then my Will shall be construed as referring only to my community-property interest in an item of property. In no case shall my Last Will be construed as attempting to convey property owned by my spouse. Furthermore, if I have attempted to make a specific bequest of real or personal property in this Last Will in which my spouse has an interest, I hereby direct my Personal Representative to do one of the following: (1) purchase my spouse's interest in said piece of real or personal property at fair market value and, thereafter, complete the bequest as stated in this document or (2) allow my spouse to purchase my interest in said piece of real or personal property at fair market value and, thereafter, distribute the net sales proceeds to the designated beneficiary in completion of the bequest.
- B. **Simultaneous death.** Any beneficiary named herein who does not survive me by 48 hours shall be deemed to have predeceased me for purposes of this will.
- C. If any portion of my Will shall be held illegal, invalid or otherwise inoperative, it is my intention that all of the other provisions hereof shall continue to be fully effective and operative insofar as is possible and reasonable.
- D. The term "bequest" as used in this Will shall refer to a gift to a beneficiary of either real or personal property.
- E. As used in this Last Will, "per stirpes" shall mean a system of distributing a bequest under which children take equally among themselves the share which their parent would have taken had he or she survived the Testator. For example, using the per stirpes method, suppose a bequest was made equally to three individuals, one of whom had already died leaving issue. The bequest would be divided into thirds with each living beneficiary receiving a one-third share and the issue of the deceased beneficiary dividing a one-third share equally amongst themselves. If, however, the deceased beneficiary was not survived by issue, then the one-third share of the bequest for the deceased beneficiary would be re-distributed one-half to each of the surviving beneficiaries.

F. If (and only if) I have **not** made an effective disposition of the residuary of my estate, the Personal Representative shall distribute it to my heirs at law, their identities and respective shares to be determined according to the laws of the State of Indiana relating to intestate succession in effect on the date of my death.

IN WITNESS WHEREOF, I, the Testator, sign my name to this instrument this _____ day of December, 2007 and being first duly sworn, do declare to the undersigned authority and below-named witnesses that I sign and execute this instrument as my Last Will, that I execute it as my free and voluntary act for the purposes expressed herein and that I am eighteen years of age or older, of sound mind and under no constraint or undue influence.

James Robert Hedges, Testator

Each of us declares under penalty of perjury under the laws of the State of Indiana that the following is true and correct: (a) On the date written below the maker of this Will declared to us that this instrument was the maker's Will and requested us to act as witnesses to it; (b) We understand this is the maker's Will; (c) The maker signed this Will in our presence, all of us being present at the same time; (d) We now, at the maker's request, and in the maker's and each other's presence, sign below as witnesses; (e) We believe the maker is of sound mind and memory; (f) We believe that this Will was not procured by duress, menace, fraud or undue influence; (g) The maker is age 18 or older; and (h) Each of us is now age 18 or older, is a competent witness, and resides at the address set forth below.

Dated: December _____, 2007

Signature of Witness #1

Print Name:

Address:

Signature of Witness #2

Print Name:

Address:

(Note: This page is **not** to be attached to your will.)

INSTRUCTIONS REGARDING EXECUTION OF YOUR WILL

- A. **Important.** Your last will should have page numbers on **each page**. The PDF version of our documents come with page numbers already embedded. If you downloaded an MS Word version of the document from our site, it shall lack page numbers and you shall need to manually add them to the document. If you are unable to determine how to do so, please email the document to administrator@medlawplus.com and we shall add the page numbers for you.
- B. We recommend that you execute two originals of your Last Will and Testament. Give the first original to the Personal Representative you named and you retain the second original (preferably placed in your bank lock box).
- C. Our last will template **cannot** be used to create a joint will for both a husband and wife. A separate last will document must be created for each individual.
- D. **Witnesses.** Generally, a witness to a last will need only be 18 years of age or older and mentally competent. In many states, a beneficiary of your will cannot also be a witness. It is highly recommend that you do **not** use any individual as a witness who is also a beneficiary of your will. The following is the statute from your state regarding who is eligible to be a witness:
Writing, Witnesses. (a) All wills except nuncupative wills shall be executed in writing. (b) Any person competent at the time of attestation to be a witness generally in this state may act as an attesting witness to the execution of a will and his subsequent incompetency shall not prevent the probate thereof. (c) If any person shall be a subscribing witness to the execution of any will in which any interest is passed to him, and such will cannot be proved without his testimony or proof of his signature thereto as a witness, such will shall be void only as to him and persons claiming under him, and he shall be compelled to testify respecting the execution of such will as if no such interest had been passed to him; but if he would have been entitled to a distributive share of the testator's estate except for such will, then so much of said estate as said witness would have been thus entitled to, not exceeding the value of such interest passed to him by such will, shall be saved to him. (d) No attesting witness is interested unless the will gives to him some personal and beneficial interest. The fact that a person is named in the will as executor, trustee, or guardian, or as counsel for the estate, personal representative, trustee or guardian does not make him an interested person. Indiana Code 29-1-5-2.
- E. Simultaneous death. This document provides that any beneficiary named herein who does not survive you by 48 hours shall be deemed to have predeceased you for purposes of this will. For example, if a married couple who named each other as primary beneficiaries were in an auto accident and died a few hours apart, having this provision in each will ensures that the estate of each passes to contingent (secondary) beneficiaries of each spouse rather than 100% of both estates to the beneficiaries of the spouse who lives a few hours longer.
- F. Your witnesses need to physically watch you execute the Will and then sign the Will attesting to their act of witnessing your signature. **EACH WITNESSES MUST GIVE HIS OR HER ADDRESS UNDERNEATH THEIR SIGNATURE.** If you decided to have your Will notarized (which is by far the common and recommended practice), you and your witnesses will need to go to the notary together to all sign the Will at the same time.
- G. What assets of mine are not covered by this Last Will? All assets which you own that pass outside of state probate procedures will not be affect by the designations you make in this will. The most notable types of property that pass outside of probate and, therefore, are not effected by designations in your Last Will, are: (a) life insurance proceeds where any person or institution is named as the beneficiary of your policy other than your probate estate (or the office of personal representative of your estate), (b) Individual Retirement Accounts (IRAs) and other retirement accounts where beneficiaries are named other than your probate estate, (c) property that is jointly owned with right of survivorship, and (d) property which has a "transfer on death" (TOD) designation to someone other than the personal representative of your estate. In community property states such as

California, all community property of a married couple is owned 1/2 by each spouse. Therefore, in a community property state, the Last Will only effects that portion of a married couple's community property attributable to the deceased spouse.

- H. Where do I get a notary? Your local bank is the best place to find a notary. If you cannot find a notary at your bank, please consult your local Yellow Pages which has them listed under "notaries public".
- I. What if I decide to make changes to my document? We will keep your responses to the online questionnaire in our database **for 60 days after the date of purchase**. During this time, you may go to the User Administration section of our site to call up your form questionnaire and make changes—the URL is <https://www.medlawplus.com/user/>. You shall need your "user name" and "password" to re-enter the system. Once in the User Administration area, click on the text link to your form questionnaire which is located on the upper-left of the page. Make the desired changes to your responses in the questionnaire and submit to create a revised document. If you have problems calling up your old data, email us at administrator@medlawplus.com. We do our best to give a prompt response to all inquiries, usually within a few hours. NOTE: Upon registration, our system emailed to you our record of your "user name" and "password".

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