

COMPETITION FOR ESTATE PLANNING LEGAL SERVICES IN THE INTERNET AGE*

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INTRODUCTION

Will writing is denigrated, in jest, by some non-estate lawyers as “just filling in the blanks”. With the judicial rule of thumb that draft documents should be out to clients within a month established in *White v. Jones*¹, we can counter that it is, at least, “filling in the blanks quickly”. To that we should add...”and accurately, and with full information from the clients, all with the unhappy risk that potential liability may not rear its ugly head until decades later.”

Few other areas of law have similarly imposed challenges for meeting client (and judicial) expectations to gather sufficient information from their clients, to make recommendations to them, to obtain informed instructions from them, and then prepare legal documents that minimize future challenge in short order. On every file. And usually with less remuneration compared to what our colleagues may earn in their areas of practice. Yet the impression persists in the minds of much of the public that this professional service involves little more than “filling in a few blanks”. How else to explain the proliferation of internet websites encouraging people to “save expensive lawyers’ fees” and to do a “legal will” on their website?

Clearly, some consumers see little value in what a lawyer adds to the process of doing a will. This may be because lawyers do not do enough to educate the public about the value of their services. And it has always been so. Before the internet, there were insurance agents and trust companies drafting wills, books counselling the public how to write wills themselves, and a coffee-shop industry on how to do holograph wills. Some of this continues. There will always be members of the public who balk at paying professional fees. What is new, however, is the emergence of the internet as a powerful, pervasive tool disseminating the idea that you can do a will yourself, cheaply, and without a lawyer.

Countering this attitude is not easy. Anecdotally, it seems to be getting harder. Countering this attitude is probably done most effectively educating clients one at a time that estate planning is a complex matter best served by dialogue with a lawyer. Providing superior personalized service garners word of mouth referrals. But these seem like small advances against the internet juggernaut.

¹ [1995] 1 All ER 691 (H.L.)

So what how do you reply when asked by someone about doing their own will on a website? Do you even know who your competition is on the internet? The goal of this paper is to provide a brief survey of what is out there on the internet and to arm you with knowledge so you can point out problems with the products being offered to the public. This will hopefully also lead to an opportunity to counter misconceptions about the service estate planning lawyers provide.

WHO IS THIS COMPETITION ON THE INTERNET?

While hardly a scientific survey, in preparation for this paper I did some research on the internet to see who is actively promoting estate planning services there. I googled “wills Edmonton” (341,000 hits) and “wills Canada” (8,540,000 hits) and then reviewed the first page results.

Only one law firm showed up: an Edmonton firm better known for personal injury and family law.

Some of the sites were either only tangentially involved with preparation of wills or living wills, or were job advertisements or charities. Others invited the internet browser (the person) to find information about wills or to do a will on their website. Notably, there were nine links on the “wills Edmonton” and eight on the “wills Canada” that were sponsored links. Of these, eight offered to assist in preparing a will (there were six overlaps on the two Google search pages). The word “free” appeared prominently.

Only one of these sponsored sites also appeared as a Google “hit”. Since my understanding is that Google ranking rewards website traffic, I wondered whether there really is much of a market for these will writing websites or not. What became clear as I got deeper into reviewing a number of the websites and their products is that they were often veiled in anonymity, and the quality of the documents offered varied greatly from website to website. Neither of these appears to be widely known to the public or to the profession. I am unaware of any other reviews of these products by other lawyers. (I googled it and none appeared).

There were clues to indicate that the authors of a number of the websites were not based in Alberta, and often not based in Canada. Checking under “*About Us*” tabs seldom identified the authors, and since descriptions about experience and credentials were so generalized and so