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## Old trusts and estates guard warns the new among its ranks

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If you need some estate planning work done, you might find yourself enlisting the help of a trusts and estates attorney you found online. A few meetings and a few signed documents later, the matter is seemingly solved. But what you might not know is the contract you signed was created via a document generator, the office where you met your attorney was rented by the day, and the attorney himself had only been practicing for a year or two. Not long from now, even a small mistake he made could cost you.

Seasoned lawyers in the trusts and estates arena say this scenario is becoming an ever-growing issue in their industry. Young attorneys - thwarted by a bleak employment outlook - start their own trusts and estates practices, but in turn are susceptible to legal missteps.

"These young attorneys are well intentioned but they aren't familiar with technical requirements of the job," said Danielle C. Humphries, a trusts and estates partner at Hahn Loeser & Parks LLP. "It is becoming a problem in the trusts and estates field."

Errors made by young practitioners run the gamut - poorly crafted contracts, misspelled beneficiary names, wrongfully deleted provisions, or the use of out-of-date documents.

David P. Schwartz, a partner at estate planning firm Schwartz & Shapiro LLP, said he once inherited a trust in which the successor co-trustee siblings hadn't spoken to each other in 40 years - something that, at a minimum, should have been discussed with the attorney drafting the documents.

"The job of lawyer is to ensure that everything goes smoothly when the client is gone," he said. "Some of these mistakes could be solved by a simple conversation between the lawyer and the client, and inexperienced attorneys who rely on certain forms to draft estate plans might overlook significant issues and fail to have that conversation."

The mistakes have led to an uptick in contested matters in probate court, lawyers say, and sometimes trigger even more dire consequences. Humphries said she once took over a contract in which the former attorney had deleted a provision that was tied to several other provisions - an oversight that resulted in a malpractice claim.

"These kinds of mistakes can turn people's lives upside down," Humphries said. "It's very scary and

upsetting."

According to this year's Court Statistics Report, published annually by the state Judicial Council, probate filings in California totaled 41,419 in fiscal year 2013, an increase of about 270 from the year before, and a jump of about 430 from 2011.

"Given the landscape with estate planning and the changes in the law, it's a landmine for practitioners," Schwartz said.

For example, trusts and estates documents that may have been appropriate just three years ago might not be effective today, Schwartz said. Changes in the law - such as an increase in estate tax exemptions - also make it especially tough on young attorneys who often have more limited resources than other, experienced practitioners.

Young attorneys might have better training and access to resources at big firms, but many have cut back on their trusts and estates practices in recent years. Firms like Weil, Gotshal & Manges LLP, Paul Hastings LLP and Wilmer Cutler Pickering Hale and Dorr LLP have all chopped or lost their trust and estate departments. Most recently, New York-based Debevoise & Plimpton LLP ditched its seven-lawyer trusts and estates practice early last year.

Smaller boutiques are often not any better prepared to take on and mentor younger attorneys. Though Schwartz said his firm receives a lot of resumes, it is simply not well-equipped to do the training that a larger firm might be able to do.

"For a firm to hire a lawyer that is just out of school takes an investment," Schwartz said. "A trusts and estates attorney that can hit the ground running and can start being profitable right away is more palatable."

With big firms jettisoning their trusts and estates work and smaller firms remaining relatively unable to hire young attorneys, the future landscape for trusts and estates lawyers is concerning, attorneys say.

Humphries, who mentors young attorneys in her field through the San Diego County Bar Association, said major guidance is needed.

"If everybody started doing a little more mentoring and if you had newer attorneys seeking mentorship, maybe collectively we'd see a lot less of those issues."

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