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Lori & Gary

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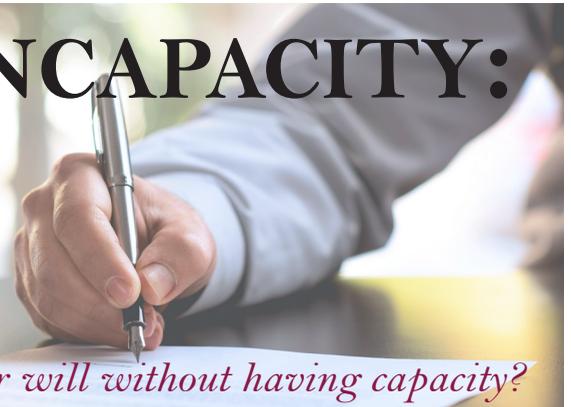
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## WILLS & INCAPACITY: WHAT DOES IT MEAN?



*Did someone you know sign their will without having capacity?*

**I**nheritance is a privilege, not a right. We inform our clients that it's the client's decision as to how they would like their assets to be distributed upon death. A Last Will and Testament, or a properly prepared and executed Codicil to a Last Will and Testament, will determine how the client has chosen to distribute their assets upon death.

### Signing Requirements

There are certain legal requirements that must be satisfied in order for a Last Will and Testament to be valid. Otherwise, a Will Contest may end up being filed after the client's death. One of the most important legal requirements is called "Testamentary Capacity."

### The Elements of Testamentary Capacity

The distribution of property by a Will is a statutory legal right, and the Texas Estates Code and Texas case law require the testator (A.K.A., signer) be of "sound mind." There has been no exact, specific standard announced to establish what constitutes sound-mindedness. Rather, the measure of a testator's mind, when questioned, is determined by the facts and circumstances of the case.

Testamentary capacity — deemed synonymous with "sound mind" — is not as much a measure of sanity, good judgment, or even common sense, as it is a measure of mental ability. The standard

announced in a 1890 Texas Supreme Court case is used in almost every Will Contest case today.

A testator has testamentary capacity if he or she has sufficient mental ability at the time a Last Will and Testament is executed to:

- Understand the business in which he or she is engaged, specifically the making of a Will;
- Understand the effect of his or her act in making a Will;
- Understand the general nature and extent of his or her property;
- The natural objects of his or her bounty, in other words, know his or her next of kin; and
- Collect in his or her mind the elements of the business to be transacted and hold them long enough to perceive their obvious relation to each other and to form a reasonable judgment.

In order to allege in a Will Contest that a Last Will and Testament was signed without testamentary capacity, there must be evidence that the person lacked the capacity to know or understand one or more of the factors listed above, which Texas Probate Courts are required to use as the "test" for testamentary capacity.

Call our office for more information on incapacity.

# The Top 6 Questions To Ask Before Filing For Divorce

*Divorce is never easy. Knowing the answers to these 6 important questions will help you have a better understanding of the process.*

## 1

### Is a Lawyer Necessary?

It is important to consult with an attorney regardless of whether you think you want to handle the divorce yourself or not. We recommend speaking with a qualified family law attorney to find out your options.

## 2

### How Much Will It Cost?

The cost of a divorce in Texas can vary depending on if you have a contested or uncontested matter. Many attorneys offer free consultations and can give an estimated cost depending on your specific situation.

## 3

### What Are Your Assets?

Before you file for divorce, know what your current assets and liabilities are, especially if you do not handle the money. Know where money is spent, your incomes, debts, etc. in order to avoid possible conflict during the process.

## 4

### What About The House?

Have you and your spouse decided on who will keep the house? Do you plan to sell the property and split the proceeds? Having that conversation will give you a clear plan of action.

## 5

### Do I Get Half of Everything?

Texas is a community property state. That means that in most instances, any assets that are acquired DURING the marriage are deemed to be owned one-half by each spouse.

## 6

### Can I Receive Spousal Support?

The court will look at numerous factors when deciding if spousal support will be awarded, such as a spouse's ability to pay support and either spouse's ability to work. Also, in most cases, you would need to have been married for at least 10 years.



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# --- Question & Answer ---

## Q

### *How Do I Know If My Divorce Is Contested Or Uncontested?*

## A

*If you are unsure if your divorce in Texas is contested or uncontested, take a look at the six questions below.*



- 1. Do you and your spouse know who is keeping the home?*
- 2. Do you and your spouse have a plan for splitting all bank and retirement accounts?*
- 3. Do you and your spouse agree where the children's primary residence will be established?*
- 4. Do you and your spouse have a schedule in place for your children that includes holidays?*
- 5. Do you and your spouse know how much each of you will be paying in child support and/or spousal support?*
- 6. Do you and your spouse agree on who will carry medical and dental insurance for your children?*

**If you answered YES to ALL of these questions:**

Then you may have an uncontested divorce matter. Uncontested divorces are those where the parties are in agreement on all matters and just need an attorney to facilitate the agreements. In Texas, uncontested divorces can be filed and finalized in as little as 60 days.

**If you answered NO to ONE or MORE of these questions:**

You may have a contested divorce matter. Unfortunately, when there is one aspect the parties do not agree on, it can cause complications for any other areas where an agreement may have otherwise been established, making the divorce contested.

Contested divorces do not mean that one spouse does not want the divorce. It means that one spouse does not agree to the terms of the divorce the other spouse is proposing. This is the time that the judge or a mediator may need to get involved.

***Still have questions? Call our office at 214-559-7202 to schedule your no charge consultation today!***



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# Halloween Candy Bark Recipe

## Ingredients

- 2 cups White Chocolate, Chopped
- 15 Drops Flo-Coat Candy Coating
- 1 Drop Purple Food Coloring
- 1 Drop Green Food Coloring
- 1 Drop Orange Food Coloring
- 2 Tbsp. Large Halloween-Colored Nonpareils
- 1 Tbsp. Halloween-Colored Sprinkles

## Directions

Place chocolate in a heat-proof bowl over a pan of simmering water and stir until completely melted.

Divide 3 tablespoons of melted white chocolate into 3 separate bowls.

Add 5 drops of Flo-Coat and 1 drop of food coloring to each bowl; stir to combine.

Pour remaining white chocolate onto a parchment-lined baking sheet. Using an offset spatula, spread chocolate until it's 1/8" to 1/4" thick.

Drizzle colored chocolate on top and drag a toothpick to create swirls. Dust the top with nonpareils and sprinkles.

Transfer to the refrigerator to set for 20 minutes. Break or cut into pieces to serve.

Recipe: Delish.com