

# SAMPLE WILL

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WILL OF  
JOHN DAMIEN WHITE

## I. INTRODUCTION

**I, John Damien White, also known as J.D. White, domiciled and residing in Missoula, Missoula County, Montana, declare this to be my will, revoking all prior wills and codicils.**

## II. FAMILY INFORMATION

**I am married to Mary Helen White. All references of "my wife" are to her. I have two (2) children, namely, David Baxter White and Cynthia Baxter White. All references to "my children" refer to the two children named in this paragraph and any other children hereafter born to or adopted by me and my wife.**

## III. PRE-RESIDUARY GIFTS

### **A. Gifts of Special Items:**

**If my sister, Mary Vivian Jones, 115 Main Street, Prairie City, Utah, survives me, I give her (and not her descendants) the Steinway grand piano which was given to me by my mother. If for any reason I do not own that Steinway grand piano at my death, the devise to my sister is canceled.**

### **B. Tangible Personal Property List**

**If my wife survives me, I give her all of (the rest of) my tangible personal property.**

**If my wife fails to survive me, I might leave a written statement of list disposing of items of tangible personal property. If I do and if my written statement of list is found and is identified as such by my personal representative no later than 30 days after the**

**Dated:** \_\_\_\_\_

**statement of list is to be given effect to the extent authorized by law. Any tangible personal property not effectively disposed of by such a statement or list shall be distributed to my surviving children (and not to their descendants) as they may agree. If my surviving children fail to reach agreement within 90 days after the probate of this will, such tangible personal property shall be divided among my surviving children as my personal representative determines appropriate, in shares of substantially equal value.**

**If any child of mine is a minor at the time of such division, my personal representative may distribute the child's share to the child or for the child's use to the child's guardian or to any person with whom the child is residing, without further responsibility, and the distributee's receipt shall be a sufficient discharge to my personal representative.**

#### IV. RESIDUARY CLAUSE

**If my wife survives me, I give her the residue of my estate. If she fails to survive me, I give the residue of my estate to my descendants who survive me by representation.**

#### V. METHODS OF DISTRIBUTION TO CERTAIN BENEFICIARIES

**If under this will any property is distributable to a minor or to a person under twenty-one (21) years of age, my personal representative in my personal representative's absolute discretion, may distribute such property in any manner permitted by law and additionally in any one or more of the following ways:**

- (A) If the person is a minor, directly to the minor or on behalf of the minor for the minor's exclusive benefit;**
- (B) If the person is a minor, to a guardian or conservator for the minor; or**
- (C) If the person is under twenty-one (21) years of age, to any person (including my personal representative) selected as a custodian by my personal representative under the applicable Uniform Transfers to Minors Act of any state.**

Dated \_\_\_\_\_

VI. APPOINTMENT OF PERSONAL REPRESENTATIVE

I appoint my wife as personal representative of my estate. In the event she shall die, be adjudicated incompetent, or resign, I hereby name as successor personal representative to fill such vacancy or any vacancy that may thereafter occur, the first in the order named who is then willing and able to serve:

- (A) Steve Johnson
- (B) Arvid Thompson
- (C) Norwest Capital Management & Trust Co., Montana

VII. POWERS OF PERSONAL REPRESENTATIVE

In addition to the powers given to my personal representative by law effective at death, my personal representative shall have all powers authorized by the Montana Uniform Probate Code, as that Code exists on the date of this will.

VIII. MONTANA LAW

This instrument shall be construed under the laws of the State of Montana.

IX. REPRESENTATION

The persons who take under this will as "descendants by right of representation" shall take in accordance with the rules of S72-2116 MCA as that section exists on this date of this will.

X. CAPTIONS

The captions set forth in this Will at the beginning of various provisions are for convenience of reference only, and shall not be deemed to define or limit the provisions of this Will, or to affect in any way its construction or application.

Dated \_\_\_\_\_

XI. CONCLUSION AND ATTESTATION

I, John Damien White, testator, sign my name to this instrument this \_\_\_\_\_ day of \_\_\_\_\_, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

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**JOHN DAMIEN WHITE**

We, witnesses, sign our names to this instrument, consisting of four pages, being first duly sworn, do hereby declare to the undersigned authority that the testator signs and executes this instrument as the testator's last will and that the testator signs it willingly (or willingly directs another to sign for the testator), that each of us, in the presence and hearing of the testator, hereby signs the will as a witness to the testator's signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_  
**WITNESS**  
Residing at \_\_\_\_\_

\_\_\_\_\_  
**WITNESS**  
Residing at \_\_\_\_\_

Dated \_\_\_\_\_

STATE OF MONTANA

County of Missoula

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by John Damien White, the testator, and subscribed and sworn to before me by the above-named witnesses, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at: \_\_\_\_\_  
My Commission expires \_\_\_\_\_

(Notarial Seal)

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DISCLAIMER

This excerpt from the Legal Guide was compiled by the Department of Public Health and Human Services (DPHHS), Senior and Long Term Care Division, Aging Services Bureau, Legal Service Developer Program. This publication is not intended to be a substitute for legal advice. Rather, it is designed to help families become better acquainted with some of the devices used in long-term planning and to create an awareness of the need for such planning. Future changes in laws cannot be predicted and statements in this narrative are based solely on those laws in force on the date of publication.

We recommend that you seek legal advice for all your planning needs.

10/15/10